

REMOVING POLITICAL ROADBLOCKS TO CYPRUS PROPERTY

*A British
Perspective*



REPORT PREPARED BY EMBARGOED!
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PREFACE

The present Report was prepared prior to the failure, on July 7, 2017, of the international conference to reach an agreement on the terms of a new political settlement for Cyprus in Crans-Montana, Switzerland.

The collapse of the talks demonstrates how wide the gap remains between the two sides. This is especially true on the key point of security, which is integral to geographic bi-zonality.

Accordingly, Embargoed! believes that the issues identified in this Report are as relevant as ever, and that a global resolution of the land/property dispute is critical to any form of progress in resolving the "Cyprus Problem", whatever form that may take.

In particular, the report proposes the opening-up of Varosha for use, which has lain empty as a "ghost town" for 43 years this week to service the needs of Cypriot communities in line with the 1979 High Level Agreement.

EXECUTIVE SUMMARY

If property is the lynchpin of a permanent peaceful solution to the long-running Cyprus Conflict, then the framework and criteria the leaders present to their respective communities are crucial. Property is the single largest issue that will affect the greatest number of individuals on the island: an estimated **210,000 displaced persons and their heirs, and a similar number of current owners and their heirs could face lengthy battles over disputed land**. This represents a very significant percentage of the total population of the island.

Research shows that property is one of the top three issues for Cypriots. It scores second for Turkish Cypriots and third for Greek Cypriots in their list of negotiating priorities, with security the primary issue for both communities.

Each side's vision and ideal property solution is inextricably tied to the trauma its community faced during the years of conflict that ran from 1963 to 1974. Due to the persecution they faced and the ongoing fears they still have for their safety, the numerically smaller Turkish Cypriots desire a global exchange and compensation scheme for property disputes that will cement bi-zonality.

Bi-zonality is a core characteristic for a new federal Cyprus, enshrined in the High Level Agreements and UN Security Council Resolutions. But Greek Cypriots prefer to dilute and ultimately to eliminate the island's ethnic zoning. Ignoring the passage of time and key rulings from the European Court of Human Rights (ECHR), their leaders and 80% of its public still insist on all refugees going 'home', even if restitution means the mass eviction of other refugees. Where disputes exist, they want these dealt with on a case-by-case basis.

Extrapolating data from North Cyprus' Immovable Property Commission (IPC), **the sheer scale of individual claims could take over 100 years to process.** The ensuing disputes would push hundreds of thousands into long drawn-out legal cases. Instead of ending the Cyprus Problem, this approach will more likely stoke **inter-communal tensions that could easily re-ignite armed conflict.**

Consider the case of Morphou/Güzelyurt. Greek Cypriot leader Nicos Anastasiades has repeatedly said "the Cyprus problem cannot be solved without the return of Morphou." The 1960 census shows 6,480 Greek Cypriots lived there, along with 123 Turkish Cypriots. In the Turkish Republic of North Cyprus' (TRNC) 2011 census, the town and surrounding district's population is over 30,000 people, many of them refugees from Paphos and Limassol. Unlike the 2004 Annan Plan referendum, **these residents are now unlikely to back a solution that forces them from their homes.**

The current residents of Güzelyurt rely on the Demopoulos case of 2010. This landmark ECHR judgment not only stated that the TRNC's IPC was an "independent and impartial" body, but also ruled out a blanket right for restitution, stating compensation was a valid remedy. Significantly, the court also stated **it would not "impose an unconditional obligation to embark on the forcible eviction and rehousing of potentially large numbers of men, women and children"**. It added that where a person has no "concrete and persisting links" with a property, even if "family roots" exist, it will not be considered their "home".

While the TRNC's IPC uses the Demopoulos Ruling as the basis of its adjudications on cases of disputed title, the South does not. In *Sofi vs Cyprus* 2010, the ECHR stated that there was no effective domestic remedy for Turkish Cypriot claims, forcing the Greek Cypriot authorities to revise their laws. Relying on its 2010 *Sofi* decision, the ECHR sent another case, *Kazali v Cyprus*, back to the courts in the South. However, the applicants say unlike the North's IPC, where four of a panel of seven ruling on disputed cases are non-Cypriot legal experts from Europe, all judges in similar cases in the South are Greek Cypriot and maintain a partisan approach.

Another critical district with major implications for the Cyprus Problem is Varosha/Maraş. Before the 1974 War, this ghost town located within the TRNC's borders was a holiday resort famed for attracting British and Hollywood stars. It is popularly – and erroneously – believed to be solely owned by Greek Cypriots, a view vigorously challenged by **Evkaf (the Islamic Trust of Cyprus), which claims to hold title deeds for 90% of the town's land.**

Once a passive bystander, Evkaf has adopted a pro-active stance to defend its real estate, and its claims are a game changer for Cyprus. Established soon after the Ottoman conquest of the island in 1571, the trust enables Muslims to bequeath property and assets for the benefit of Cyprus' Muslim community. The Sultan's edict states that Trust property rights are '*irrevocable, perpetual and inalienable*'. These rights were recognised when Britain colonised the island and again in the treaties granting Cyprus its independence. However, since 1878, Evkaf land has been illegally transferred to others.

After years of meticulous research, reviewing over 8 million documents, **Evkaf has now laid claim to at least 14% of Cyprus' total landmass and likely well over 20%.** The evidence to back this huge inventory is said to be up to "international legal standards," and will be tested in the Cypriot courts and, if needs be, the ECHR.

Addressing the violations committed against victims of armed conflict is a crucial part of the healing and reconciliation process. There are important lessons to be learnt from other conflicts, past and present including: German reunification, the illegal settlements in Israel, and the impact of mass migration on Britain and Brexit.

This report was spurred on by Turkish Cypriots in Britain and expats invested in North Cyprus who feel sidelined from the Talks and are deeply concerned by details emerging from the negotiations. While many would not have a vote on a future settlement, any decisions on property and citizenship will have a huge and lasting impact on their lives too. Their hopes and fears, captured in this report, are shared by many others in Cyprus too.

These British stakeholders urge the two leaders to be positive yet responsible in their dealings with property and territory, and want their voices and concerns taken into consideration. Expats in particular are wary of the Cypriot authorities after falling victim to house sale "scams" on both sides of the island, with little help from officials to rectify their problems. Turkish Cypriots with land issues in the South complained of having their property rights constantly deferred by the Greek Cypriot courts.

These stakeholders view the end of the Cyprus Problem as vital to their wellbeing: it will end the North's international isolation. Title deeds will be globally recognised, pushing land values to increase, which in turn will boost the economy. For those battling authorities in the South, a solution promises a faster, more transparent and less biased process.

One source of anxiety arose from news reports that a **new federal Cyprus will impose a strict population ratio of 4:1 in favour of Greek Cypriots.** This cap on the number of Turkish Cypriot citizens is said to be in response to the perceived problem of Turkish settlers – about a third of the North's population. Incredulously it ignores the fact that foreign residents weigh in at 20% of the South's population. Moreover, this notion of artificially limiting the population smacks of racial discrimination. It could deprive existing TRNC residents of a future right of residency on the island and deny Turkish Cypriot origin persons currently abroad the right to Cypriot citizenship.

There was considerable alarm at the prospect of **mass migration and forced evictions, with pressure for up to 100,000 Greek Cypriots to be relocated in Turkish North Cyprus.** Also, there is concern at the prospect of Special Zones, where both sides will govern jointly towns in the North where large numbers of Greek Cypriots will relocate, likely to cause confusion over whose authority and which cultural identity prevails.

The unchecked problem of hate crimes against Turkish Cypriots, rooted in the South's Hellenic vision of Cyprus, was cited as a major problem. With the rise of the far-right ELAM, **racist attacks could pose serious consequences for a united Cyprus and its two communities.**

The cost of reunifying Cyprus was also raised. Estimated by the World Bank to be €20 to €30 billion, questions on how these funds will be found remain unanswered. The necessary financial pot must be in place before a settlement plan is set in motion: **any misleading promises that create false expectations could lead to resentment and anger, and destabilise the newly formed Cypriot state.**

The report's recommendations include those which can be adopted without a political settlement. These include a land ownership audit to inform likely costs, and the strengthening of local remedies, with both sides using the Demopoulos Ruling for the resolution of disputed property. In line with the 1979 High Level Agreement, Varosha should be opened. Embargoed! also believes a reality-check is needed, so both sides can prepare their communities for the impact of a property solution. For Greek Cypriots, this means emphasising that the clock cannot be turned back to 1974, while current residents in North Cyprus must understand that legal certainty over property ownership comes at a large financial price.

Given the risks and issues, the report urges any future settlement to work on the basis of a global property solution. Claims should use a simple process devoid of complicated categories, to avoid ambiguity and uncertainty. Fast solutions for major private landowners, such as Evkaf, can help the negotiations, making it easier for important territorial adjustments that bring more land into play for restitution and exchange. At all costs, a political settlement must avoid inflaming tensions through mass evictions and migration.

Sensible steps by all parties can help Cypriots work towards a long-term vision of living freely together, side-by-side in any part of the island they wish. For this to become a reality, the world needs to start treating both communities as two political equals now. Steps to bring this vision into reality must include programmes for "Truth and Reconciliation", with sufficient time and resource allocated to this task as necessary to ensure that there is mutual understanding and respect between all Cypriots.

To conclude, property is an emotive subject that needs sensitive handling. **Pitting past and present owners against each other by demanding that cases are resolved through individual claims is simply reckless and dangerous, and will also undermine the new union.** If it is not possible to achieve a comprehensive political settlement for Cyprus, the shape of the property solution has already been laid down by the ECHR; common sense verdicts that can finally put the property issue to bed.

INTRODUCTION

Human rights are universal and inalienable. They exist to protect all members of the human race irrespective of their colour, sex, religion, political opinion, and social or national origin. These fundamental rights include the sanctity of life and equality under the law, which are usually enshrined at both a local and international level.

Applying these rights in practice however, can be harder, especially when two groups of people from the same territory have diametrically opposed views on how these human rights should manifest after a conflict. This is the problem that Greek and Turkish Cypriots face.

The Cyprus Conflict started in December 1963. Despite decades of talks, supported by the international community, it has been impossible to break the deadlock because each side views the historical events and desired outcomes differently. Nowhere is this more evident than the language used to describe the island's recent history.

Was the breakdown of the power-sharing government of the Republic of Cyprus in December 1963 due to an "inter-communal conflict" or attempt at "ethnic cleansing" by the larger Greek Cypriot community? Did Turkey "intervene" or "invade" Cyprus in July 1974? Should we equate North Cyprus with "freedom" or "illegal occupation"? Is bi-zonality "safeguarding the survival of a community and its cultural identity" or "preserving ethnic division"?

The language a person uses will indicate not only which narrative they subscribe to about the conflict, but also their likely anxieties and aspirations for a united Cyprus, and the solutions they want embedded into a comprehensive settlement.

Since the 1960s, many international advisors and Cypriot leaders have tried to bridge the elusive gap between the two communities and failed. Following the division of the island in 1974, the two sides have adhered to a political formula captured in the High Level Agreements of 1977 and 1979. It was upon this that in 2004, the United Nations helped craft a detailed plan to reunite the island as a bi-zonal, bi-communal federation. The UN Annan Plan went to simultaneous referenda. Sixty five percent of Turkish Cypriots voted in favour, while three quarters of Greek Cypriots voted against the plan.

Thirteen years on, the two Cypriot sides continue to try and forge a path to the 'promised land' by finding a resolution acceptable to both parties. Compromise is vital and the UN-hosted talks in Geneva, Switzerland, that started on 28 June 2017 are seen as a *"make or break"* time for the existing negotiations based on a federation model. This historic opportunity and the component parts of the overall solution, some old, some new, generate plenty of commentary and concern on and off the island.

A core part of the negotiations is property. This is the single largest issue that will affect the greatest number of people on the island: an estimated 210,000 displaced persons and their heirs, and a similar number of current landowners of disputed title. How these stakeholders view the Cyprus Talks and any comprehensive settlement that emerges will more than likely depend on the property proposals.

Property remains a highly complex and emotive issue, ranking in the top three priorities for both sides. Various studies have shown the huge gulf that exists in the perceptions of both communities: Greek Cypriots have been repeatedly told by their community leaders that all refugees will *"return home"* to reclaim their former properties, while Turkish Cypriots have been led to believe the post 1975 population and property exchanges will become permanent after a new deal. The current talks have not helped manage these conflicting expectations.

The affected people are not just Cypriots on the island, but also the Diaspora abroad which includes tens of thousands of displaced people. They, along with others of Cypriot heritage and foreigners who have invested in property in Cyprus are apprehensive about the current direction of the Talks and decisions being taken that will have a severe and permanent impact on their assets and future wellbeing.

The feeling among these stakeholders is that they have not been consulted and, if leaks about the current property proposals are to be believed, their rights have been effectively marginalised.

This report seeks to present the concerns of British Turkish Cypriots and British expatriates who have vested interests in Cyprus. It outlines their hopes and fears based on what is currently known about the negotiations, and, drawing on similar conflicts and important case law on the Cyprus Property Issue, offers common sense solutions to Cyprus' complex property conundrum.

It is the sincere wish of Embargoed! that issues discussed in this report, and suggestions made are seen as a positive contribution to support initiatives taken by the two leaders to date to bring Cyprus to a fair, just and lasting solution so that all the parties can move on.

Yet it cannot be emphasised enough: forcing through the wrong property proposal may not only fail to reconcile communities, it could be the trigger for a new conflict.

About report authors Embargoed!, www.embargoed.org

Embargoed! is an independent human rights group campaigning for the immediate and unconditional end to all embargoes against North Cyprus. Launched on 4 March 2005, the group aims to play an active role in raising awareness about the isolation of North Cyprus, and lobbying world leaders and international institutions to restore the fundamental political, economic and social rights of Turkish Cypriots.

Embargoed! does not advocate any specific Cyprus solution, believing this is a matter for the two peoples of Cyprus to decide, with the input of all stakeholders, including the Cypriot Diaspora, and British and other expatriates who reside in Cyprus.

As part of its remit, the organisation has sought to promote respect and dignity between the two communities, playing a pioneering role in a number of fields. In 2006, it was the first British Cypriot organisation to host property seminars that took up the rights of both sets of refugees, repeated in 2010 following landmark legal decisions in the European courts. In 2008, Embargoed! highlighted the endemic problem of racism that exists in the language, education and behaviour of both communities – the first time this issue was tackled among Cypriots anywhere in the world.

The group has repeatedly flagged up concerns about far-right Greek party Golden Dawn and its Greek Cypriot offshoot ELAM. Initially told by authorities in Cyprus and Europe that these remain "insignificant" political forces, the events of recent years show how justified Embargoed!'s misgivings were: Golden Dawn is now Greece's third largest party and its racist agenda has been carried into the heart of Greek Cypriot politics and legislature following the election of ELAM MPs supported by the Greek Cypriot Orthodox Church.

These extremists, backed by other mainstream Greek Cypriot parties, pose a serious threat to relations between the two sides. Their polarising actions brought the Talks to a standstill in February this year and heightened fears on the Turkish side, for whom security is also a critical element in the Talks.

It is in this context that the report and its recommendations are made.

Fahri Zihni, chairman, Embargoed!

FACTS AND STATS

Establishing the full facts and figures affecting disputed land in Cyprus is difficult, but vital in order for the two sides to develop a comprehensive and just solution that can be respected by both communities. The following snapshot offers an important backdrop to this report.

CURRENT TERRITORIAL SPLIT: Cyprus is 9,251 km² large. Of this 3,355 km², or 36%, is controlled by the Turkish Cypriots in an area known as the Turkish Republic of Northern Cyprus (TRNC). The British Sovereign Base Areas account for 3% of the island's territory, with a further 4%, or 346 km², for the total area of the Buffer Zone that runs across the island and which is patrolled by UNFICYP. The remaining 57% in South Cyprus is under Greek Cypriot control.

PROPOSED POST-CONFLICT TERRITORIAL SPLIT: Historically, reunification plans sought to readjust the territorial area for each ethnic zone based on private land ownership and the percentage of state land according to the population size of each community. The Turkish Cypriot community's total was set around 29%. However, this figure does not include much of the substantial amount of land owned by Evkaf (Islamic Trust of Cyprus).

CYPRUS CENSUS 1960 AND PROPERTY OWNERSHIP: according to state records 20.6% of the island's total landmass was identified as Turkish Cypriot owned, 48.6% Greek Cypriot, 2.8% British (bases), with the bi-communal Republic of Cyprus state owning 28.0%. The percentage of private land ownership is therefore 29.8% for the Turkish Cypriot Community, and 70.2% for Greek Cypriot. However, this figure fails to take into account some of the substantial amount of land owned by Evkaf.

PRE-1974 SPLIT BETWEEN STATE AND PRIVATE LAND OWNERSHIP: Both Greek and Turkish Cypriot authorities agree on the figures for state and private land ownership prior to the 1974 War. These are captured in Ayla Gürel and Kudret Özersay's 2006 report *The Politics of Property in Cyprus*. The data shows a 1.3% drop in state ownership since 1960.

Ownership	Area in donums	%
Private	5,067,572	73.3
State forests, state lands, roads, rivers, etc.	1,847,820	26.7
<i>Total</i>	<i>6,915,392</i>	<i>100.0</i>

DISPUTED PRIVATE LAND OWNERSHIP FIGURES: Gürel and Özersay's 2006 PRIO report highlighted the major discrepancies for pre-1974 private land ownership figures. Greek Cypriots lay claim to 78.5% of private land in the North, whereas Turkish Cypriots estimate this to be 63.8%. Pre-1974, Turkish Cypriots claim to have owned 33% of all private land in the North and 22% in the South – considerably higher than Greek Cypriot figures of 21.1% and 13.9% for the North and South respectively.

Gürel and Özersay present several tables that display the variances in the two communities' estimated figures. Two of these are given below: the first table relates to data from the Greek Cypriot Lands and Surveys Department, the second research data by Halil Giray for the TRNC's Cartography Department.

Private Ownership (GREEK CYPRIOT SOURCES)	Area in donums	%
Greek Cypriot (Church properties included)	4,123,711	81.4
Turkish Cypriot (Evkaf properties included)	852,455	16.8
Other communities (Armenians, Maronites, etc.)	91,406	1.8
<i>Total</i>	<i>5,067,572</i>	<i>100.0</i>

Private Ownership (TURKISH CYPRIOT SOURCES)	Area in donums	%
Greek Cypriot (Church properties included)	3,624,754	71.5
Turkish Cypriot (Evkaf properties included) (*)	1,352,792	26.7
Other communities (Armenians, Maronites, etc.)	90,026	1.8
<i>Total</i>	<i>5,067,572</i>	<i>100.0</i>

(*) Further recent evidence indicates greater ownership by Evkaf

EVKAF IS CYPRUS' LARGEST PRIVATE LANDOWNER: Evkaf disputes official land ownership figures. In 2016, it presented title deeds and other evidence showing ownership of more than 14% of Cyprus' total landmass. Research carried out by a team led by Dr. Nazif Ozturk shows that this figure could be as high as 35% (see page 21 of report for in-depth review). About a third of Evkaf property sits within the current TRNC boundary with the remainder in the South. Should the rest of the Trust's claims be upheld in court, it could significantly boost the current land ownership and territorial claims of Turkish Cypriots of 29%.

THE START OF THE CYPRUS CONFLICT: This is best explained by former Greek Cypriot President Glafcos Clerides, from his book *Cyprus: My Deposition*: *"There are others on the Greek Cypriot side who advocate the idea of ... presenting internationally the Cyprus problem as one of invasion and occupation.... The advocates of this theory forget that the international community is well aware of the following facts: (a) The Cyprus problem started in 1963 and the Turkish invasion occurred in 1974, i.e. 10 years later.... (c) During the same period between 1963–1974 there were no Turkish occupation forces in the island. On the contrary there was a Greek division from the mainland."*

REFUGEES 1963 – 74: During the bloody coup period of December 1963 and early 1964, an estimated 25,000 Turkish Cypriots (a quarter of the total community) were displaced. Of these, just 1,300 had returned to their homes by 1970. The vast majority sought refuge in secure enclaves amounting to no more than 5% of Cyprus' land mass. Also between 1963 and 1964, 500 Armenians and 200 Greek Cypriots were displaced.

REFUGEES POST 1974: The number of refugees grew massively in this period. Official sources state 142,000 Greek Cypriots were displaced, while 45,000 Turkish Cypriots became refugees, as they moved from the South to North. Initially about 20,000 Greek Cypriots had remained in the North, mainly in the Karpaz region, and several thousand Turkish Cypriots stayed put in the South. Following the 1975 Vienna Population Exchange Agreement, numbers shrank: 130 Turkish Cypriots were left in the South, while by 1981 there were just 1,076 Greek Cypriots in the North. Including all displacements, approximately 160,000 Greek Cypriots (a third of the community) and approximately 55,000 Turkish Cypriots (nearly half of the community) were made refugees. 15,000 of the Turkish Cypriots were made refugees for a second or third time in 11 years.

USE OF REFUGEE PROPERTIES: Post 1974, the Greek and Turkish Cypriot authorities assumed control of properties left by refugees, but their management of these assets varied hugely. In the North, Turkish Cypriot refugees were offered an 'exchange of property' of equal value to assets they had left behind in the South. The view was this was a permanent swap and any difference in equity would be ironed out as part of a 'global property exchange and compensation' scheme. Being official TRNC policy, Greek Cypriot properties were given or sold to non-refugees too.

In the South, the island's division was viewed as temporary and so the State kept hold of refugee properties and appointed The Custodian of Turkish Cypriot Properties, which is controlled by the Minister of Interior. Some Turkish land was appropriated by the State for public use, such as to build Larnaca Airport and Vasilikos Power Plant. For other properties, custodians maintain their upkeep and collect what amounts to a peppercorn rent for former owners. Greek Cypriot refugees who live in these properties are unable to leave them to their heirs once they die.

GREEK CYPRIOTS, RESTITUTION & TERRITORIAL CONTROL: In 2010, Cyprus 2015 (an initiative sponsored by Interpeace) conducted a survey to measure attitudes towards the property issue. *Public Opinion & the Property Issue: Quantitative Findings* was co-ordinated by Alexandros Lordos, Erol Kaymak and Christos Anastasiades, with 1,000 people from each community polled. On the issue of 'refugees returning to their original homes', 69% of Greek Cypriots said they would 'definitely' or 'probably' return if the territory was under Greek Cypriot control. This figure dropped to 17% if the area remained under Turkish Cypriot control. Three main reasons were given: fears over safety, not wishing to live among Turkish settlers, and because they had already established their new lives and did not want to start over. This question doesn't appear to have been asked of Turkish Cypriots.

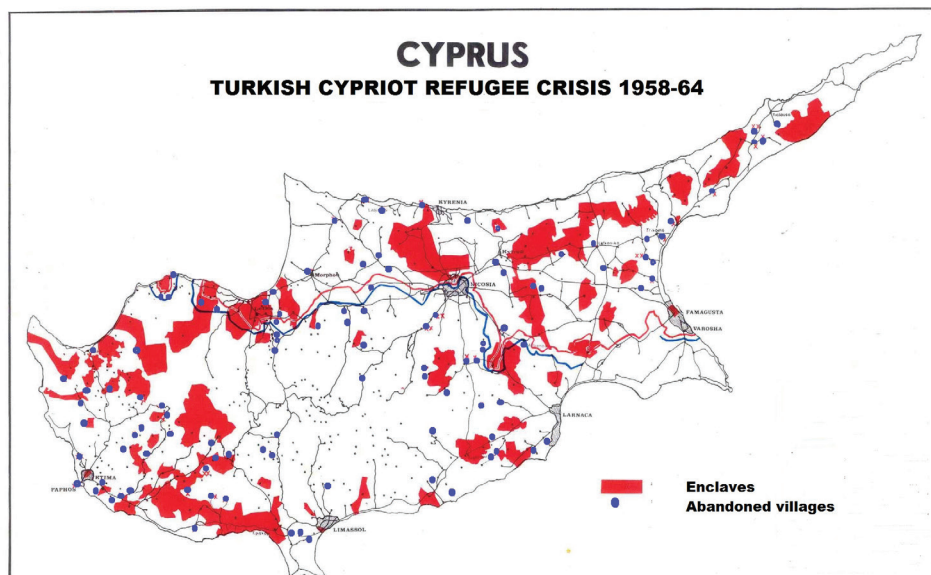
RESTITUTION, COMPENSATION OR EXCHANGE?: From the same Cyprus 2015 survey, 40% of Turkish Cypriots viewed exchange as their first choice property solution, with 37% plumping for compensation as instead. Only 28% opted for restitution – a marked contrast to Greek Cypriots, with a whopping 80% preferring restitution.

PRINCIPLE AND EQUITY: Ahmet Sözen's *Hopes and Fears Regarding a Property Settlement*, also based on Cyprus 2015 research, indicated the importance of 'fairness' in resolving property. Two key elements emerged from his panel discussions: positions of principle, driven by emotive reasons, and equity, shaped by more pragmatic deliberations.

HOW FAR BACK FOR PROPERTY CLAIMS? Many Turkish Cypriots were deprived of their property in 1964. Calculations for compensation for loss of use should therefore date back to 1964, and not 1974.

100 YEARS TO PROCESS INDIVIDUAL REFUGEE PROPERTY CLAIMS: The Greek Cypriot side demands that every refugee property case be handled individually. However, since 1964 land has been split-up, built upon and changed hands many times, some involving foreign, as well as local buyers. Added to this, with each passing year there are fewer original owners, but significantly more heirs, creating an enormous amount of work to establish ownership, even before a consensus can be reached about how to settle any property claims.

Extrapolating data from the TRNC's Immovable Property Commission, even if there was a tenfold increase in human and funding resources allocated to a new island-wide Property Commission, it would still take them at least one hundred years to resolve all claims. The likelihood that this would fuel new conflict cannot be overstated.



Map showing 103 villages (blue) abandoned by 25,000 Turkish Cypriot refugees during 1958-1964. The refugees moved to the safety of larger Turkish enclaves (red) creating two divided communities.
Source: TRNC Ministry of Foreign Affairs

THE PROPERTY ISSUE AT THE CYPRUS TALKS

President Mustafa Akıncı of the Turkish Republic of Northern Cyprus (TRNC) was elected to office in April 2015 with 60.5% of the popular vote after the presidential run-off. He made it clear his mandate would be to resolve the Cyprus Problem in line with established UN parameters.

Under an air of positivity, he met with President Nicos Anastasiades, his Greek Cypriot counterpart, to work on a fresh solution to what has long been termed the "Cyprus Problem", and achieve reconciliation between the two communities. Unlike the UN-managed negotiations that led to the Annan Plan in 2004, where the UN had the freedom to fill in the gaps in areas the two sides could not agree, the current talks are a Cypriot-led process supported by the UN.

Since 2015, Mustafa Akıncı and Nicos Anastasiades have met more than 70 times, while their chief negotiators have held over 170 meetings. This includes three meetings in Mont Pelerin, and three in New York, during which time more than 40 rapprochement papers have been tabled.

The key areas under discussion are governance and power sharing, the economy, the EU, property issues and territory, and the island's security and guarantees.

Of these, the most contentious aspect of the Cyprus Problem is property and territory, due to the myriad of legal, economic and social complexities they involve. Each side's vision and ideal solution is inextricably tied to the trauma its community faced during the years of conflict.

An added challenge is the passage of time. Much has happened across the island since the political and communal division that occurred in December 1963. New towns, villages, businesses and communities have been built to cater for the island's expanding population.

Against this backdrop, the two leaders are seemingly trying to fit a square peg into a round hole, as typified by the irreconcilable positions taken up over bi-zonality.

BI-ZONALITY: Turkey's military intervention in 1974 did not restore the pre-war state of affairs. Instead two ethnic zones were established. After a decade of fighting and enforced political separation, and the traumatic events of the conflict, most Cypriots felt obliged to flee to the zone where their ethnic group was in control: North for Turkish Cypriots, South for Greek Cypriots.

The practical aspects of this mass movement of people were confirmed in the Vienna Population Exchange Agreement, drawn up under the auspices of the UN in September 1975. The Turkish Cypriot side was more enthusiastic about the formal establishment of two ethnic zones because as the numerically smaller side it guaranteed their security and identity, whereas the Greek Cypriots feared it would be the path to permanent partition.

Within a few years, bi-zonality became one of the corner stones of a future Cyprus settlement. The post-war talks resulted in the High Level Agreements of 1977 and 1979, which established that a re-united Cyprus would be a 'bi-zonal, bi-communal federation'.

Afterwards, bi-zonality became an internationally endorsed parameter under UN Security Council Resolution 649 (1990) that described the settlement as: *"a federation that will be bi-communal as regards the constitutional aspects and bi-zonal as regards the territorial aspects in line with ... [the] 1977 and 1979 High-Level Agreements"*.

Although successive Greek Cypriot leaders have signed off this arrangement and regularly talk about the UN parameters, it's clear they would prefer to eliminate bi-zonality completely. They view it as *"legitimising ethnic cleansing"* and argue that the movement of people after the 1974 War was not

voluntarily, but forced. They believe bi-zonality amounts to a violation of the human rights of thousands of displaced people, who should have the automatic right to return to their “ancestral homes”.

In essence Greek Cypriots want a return to pre-1974, whereas Turkish Cypriots, who see bi-zonality as providing a “safe haven” for them, want to cement and formalise the current division, while still co-operating under a central federal government. Creating a compromise between these two mutually exclusive positions is fundamental to the success of the Cyprus Talks.

A HELLENIC CYPRUS: While the armed conflict is over, it would appear the root causes of the Cyprus Problem are still very much with us. For decades, Greek Cypriots have openly aspired to creating a purely Hellenic state in Cyprus, a vision fiercely resisted by Turkish Cypriots. A power-sharing deal was essentially forced on both sides as part of Cyprus’ independence in 1960, which broke down just three years later when the numerically larger Greek Cypriot community seized power.

Forty years later, one of the architects of this state of affairs, Tassos Papadopoulos, was President in the South. He had helped negotiate the Annan Plan to unite the island, but then on the eve of the referendum in April 2004, urged his people to vote against it, with the Greek Cypriot electorate doing just that. A year after, on the anniversary of Turkey’s intervention in Cyprus, he stated: “31 years are far too many, but the time factor will not make us accept a solution which will not secure the natural and national survival of Hellenism in Cyprus.”

Earlier this year, the Cyprus Talks were suspended because of this very same issue. Greek Cypriot MPs from minority parties voted in favour of a motion by far-right party ELAM to initiate an annual day in the school curriculum to celebrate the 1950 Greek Cypriot plebiscite for ENOSIS (union with Greece). Left-wing AKEL voted against it, but MPs from Anastasiades’ DISY party abstained, allowing the vote to be carried in February 2017. The Parliamentary decision was labelled a “provocative act”, and left Turkish Cypriots stunned and outraged. Mustafa Akıncı pulled out of the negotiations and said he would not return until the policy was rescinded. The issue was diffused in April when Anastasiades refused to sign the bill off, and DISY, backed by AKEL, voted to give the Greek Cypriot government and not Parliament the right to determine school celebrations. Anastasiades has since asked the Supreme Court to rule on the matter. In the meantime, both sides remain in a position of apprehension and unease.

ANNAN PLAN 2004: As the two leaders sit down for critical talks in Switzerland, they will be mindful of events thirteen years ago. The Annan Plan presented a unique chance to unite the island and, from the prospective of the property issue, albeit painful, offered a far easier path than today.

The Turkish side had always accepted that ceding territory would form part of a permanent solution. Alongside this, they had pressed for a global exchange and compensation scheme for property, stating that dealing with property claims *en-masse* at the negotiating table would be the fastest and most practical way to achieve a resolution. In the run-up to the Annan Plan referendum, TRNC President Rauf Denktaş was replaced at the negotiating table by Mehmet Ali Talat, then TRNC Prime Minister, who ditched this idea.

Talat’s flexibility enabled new property proposals to be developed, which UN Secretary General Kofi Annan believed would offer a fair compromise to both sides. Territorial adjustments in the Annan Plan reduced the Turkish Cypriot-administered area from 36% to 29%. This would have meant a quarter of the population of North Cyprus being relocated, including everyone in Güzelyurt/Morphou, opening the way for 54% of Greek Cypriot displaced persons to return to their original homes.

The detailed provisions of the plan were done in accordance with international laws at the time. The individual rights of dispossessed owners were to be safeguarded, but with due respect to current users, while also maintaining the principle of bi-zonality. It seemed to be a fair trade off and both leaders shook hands on it.

When put to the vote, 65% of Turkish Cypriots approved the Plan – with an even higher percentage of

Güzelyurt residents agreeing to it, keen to have certainty in their lives instead of living in limbo, unsure when they would be uprooted. Yet in the South, 76% voted against the plan.

After this, the Greek Cypriot side said the Annan Plan was “buried” and has tried to change the parameters on property, aiming to edge the proposals ever closer to its ideal position. However, the passage of time and rulings by the European Court of Human Rights have changed the landscape considerably – and not in their favour.

There is no turning back to 2004 or any of the earlier settlement plans. The Talks and any property solution that emanates from them need to reflect the realities of 2017.



Nicos Anastasiades (L) and Mustafa Akıncı (R) meet in UN Buffer Zone in Nicosia for Cyprus Talks, April 2016

CURRENT TALKS & PROPERTY – “NOTHING IS AGREED UNTIL EVERYTHING IS AGREED”: When the Cyprus Talks resumed in February 2014, the two leaders at the time, Derviş Eroğlu and Nicos Anastasiades, signed a declaration which, amongst other things, stated “The negotiations are based on the principle that nothing is agreed until everything is agreed.” When Mustafa Akıncı became TRNC President, he and Anastasiades confirmed the 2014 declaration still held.

In the past two years, the media in the South in particular, have carried numerous reports on the new property proposals. They claim there will be a strict ratio of the population 4:1 in favour of Greek Cypriots, with numerical limits on how many Turkish Cypriots can become citizens of the newly created federal Cyprus, and that up to 100,000 Greek Cypriots will be allowed to “return to their homes”.

The news suggests the property issue will be resolved on an individual approach, requiring a review of the land and property on a person-by-person, plot-by-plot basis. Properties and claims will be

categorized by an even more complex system than 2004, with emotional attachment permitted as valid criteria for determining restitution. In addition, the Greek Cypriots insist on the same amount of territorial adjustments as under the Annan Plan, but with bi-zonality further diluted, so, they argue, Cyprus adheres to the EU's principles of free movement and settlement of people. There is also speculation about the creation of Special Zones where both sides will govern jointly towns in North Cyprus where large numbers of Greek Cypriots are set to relocate.

Not surprisingly, Turkish Cypriots are alarmed by these proposals. However, nothing concrete has been presented to the communities or confirmed.

Although he has been pressed by opposition politicians, President Akıncı has refused to be drawn on any of these claims or to speculate. Instead he regularly repeats that "*nothing is agreed until everything is agreed*", and that while compromises are necessary, he is well aware of the concerns and needs of the people he represents.

PAYING FOR A SOLUTION: Research shows both communities want a fair and equitable solution to the property conundrum. To achieve this, sufficient levels of funding must be found to compensate owners, new and old, for their property losses.

Last year, Cypriot media carried stories about a World Bank report, which looked at this issue. Titled *The Property Component* and dated 27 June 2016, it estimated that the "*net compensation cost*" – the amount due after subtracting the cost of properties lost by Turkish Cypriots in the South, estimated at €8 billion, from the cost of properties lost by Greek Cypriots in the north, estimated at €21 billion – is approximately €13 billion. The report stated that if property compensation was paid at today's rate, it would be equivalent to 60% of the island's GDP, essentially bankrupting the economy.

With the overall cost of the solution said to be in the reach of €20 to €30 billion, and with no international source committing itself to helping to foot the bill, serious concerns do exist about how a solution will be paid for. President Akıncı has said he believes revenue from Cyprus' newly-found offshore gas supplies can help offset the huge post-settlement costs.

THE IMPACT OF EUROPEAN COURT RULINGS

As noted already, Turkish North and Greek South Cyprus have different policies to deal with the property problem. In the absence of a comprehensive political settlement, these two distinct systems have been challenged through the European Courts. The outcomes of these cases have shaped the way Cyprus property ownership disputes are dealt with. Below are summaries of key cases showing the evolution of this issue before the courts leading up to the landmark Demopoulos Ruling of 2010.

LOIZIDOU v TURKEY 1996: This was the first test case to go to the European Court of Human Rights (ECHR). It positioned the refusal by the Turkish Cypriot side of returning land owned by Greek Cypriots prior to the 1974 War as a 'human rights violation'. The plaintiff blamed Turkey for this situation as the territory known as the Turkish Republic of Northern Cyprus (TRNC) is not politically recognised. Turkey argued that the application was out of time and that the title for the property had transferred to the TRNC state.

The ECHR did not accept the existence of the TRNC or its ownership of this land. In its judgment, the Court found in favour of Loizidou and said she retained the legal title to the land, bolstering Greek Cypriot beliefs that the TRNC does not exist as a state and they remain the legal owners of property abandoned in 1974. Many more cases against Turkey were filed by Greek Cypriots refugees using the Loizidou case as a precedent.

XENIDES-ARESTIS v TURKEY 2005: With some 1,500 Greek Cypriots lodging property cases against Turkey at the ECHR, the court took a different tack in the Xenides-Arestis case. The court asked Turkey to provide an effective local remedy that complied with international law to deal with Greek Cypriot claims on the island. As a result of this ruling in 2006, the Immovable Property Commission (IPC) was established. The structure and legitimacy of the IPC was tested in the Demopoulos case (see below).

NORTH CYPRUS' IMMOVEABLE PROPERTY COMMISSION (IPC): After 1974, as a matter of necessity, the Turkish Cypriot authorities took over all property abandoned by Greek Cypriots. This was redistributed to Turkish Cypriot refugees who were treated as the new legal owners. The logic behind this was the High Level Agreements between the two sides establishing that Cyprus would be solved on a bi-communal, bi-zonal basis, making the ethnic division of Cyprus permanent.

Under these circumstances, the Turkish Cypriot authorities believed the most effective remedy for refugees was via a global land exchange and compensation. However, in the absence of a political settlement no legal mechanism existed for a Greek Cypriot refugee to make a property claim in the TRNC. This was rectified in 2005 through a change in TRNC law, 72/2005, which led to the formation of the IPC. Strict rules apply to those appointed to the commission, with European legal experts also sitting on the panel to judge cases, thereby safeguarding its independence and impartiality.

The IPC accepts applications by Greek Cypriot refugees and is empowered to award them compensation, exchange or restitution. Its decision includes consideration of the rights of third party users, including Turkish Cypriot refugees, the State or military use of the land. Where compensation is needed, the IPC finds the necessary funds for each case and does not financially affect the current owner of the property. If an applicant accepts compensation rather than restitution within the IPC framework, then the complainants' ownership rights are extinguished.

How effective is the IPC? As of 28 June 2017, 6,325 applications have been lodged with the Commission: 801 of them have been concluded through friendly settlements and 25 through formal hearing. The Commission has paid in excess of GBP £234 million to the applicants as compensation. Moreover, it has ruled for exchange and compensation in two cases, for restitution in two cases, and for restitution and compensation in five cases. In one case it has delivered a decision for restitution after the settlement of Cyprus Issue, and in one case it has ruled for partial restitution.

THE ORAMS CASE, 2010: This well-publicised case on Cypriot property rights developed in a significantly different way to the Loizidou case above and the Demopoulos case below, as it involved a Greek Cypriot suing a named person (the Orams) rather than Turkey, with the case initiated through the Court of the Republic of Cyprus (RoC) as a matter of *"trespass"*.

Mr. Apostolides claimed the Orams were trespassing on land his family left behind in 1974. The Greek Cypriot Court agreed, ordering damages to be paid and the return of the property to its original state – an empty field – requiring the demolition of the villa the Orams had built on the land after purchasing it in good faith from a Turkish Cypriot refugee. The Greek Cypriot Court disregarded all other transactions that had occurred on the land since 1974, treating them as illegal, which in turn denied the rights of the Orams to the property.

There were several problems with this initial hearing. Firstly, the Orams were not represented at court. Secondly, the RoC court did not consider the full facts and take a balanced approach to the rights of both parties. Thirdly, the order to demolish the building is disproportionate as it far outweighs the value of the land in its original state. The Orams faced the threat of contempt of Court if they did not comply with the decision. On top of this, the British couple were vilified in the press, accused of *"stealing"* the property.

Mr Apostolides, knowing that his judgement would not be enforced in the TRNC and that the Orams had property in the UK, pursued the claim through the English Courts. His legal team used an EU directive that obliges EU member states to enforce locally court decisions taken in other EU member states. This meant the UK Courts were obliged to uphold the Greek Cypriot judgment and have it satisfied in full.



Members of Embargoed! staged a solidarity vigil for the Oramses outside the High Court in Nov. 2009

Initially the English High Court concluded it would not enforce the decision of the RoC because it affected a territory – the TRNC – where EU law is currently suspended. The case went to the Court of Appeal, which subsequently asked the European Court of Justice (ECJ) to clarify. The ECJ does not look at the fairness of a decision, but rather the procedural elements of how EU law is administered. It ruled that the EU considers North Cyprus within its territory and also ruled that even if the RoC judgment could not be enforced in the TRNC, the UK was able to satisfy part of the decision – to seize the Orams' East Sussex home as part of the damages owed to Mr Apostolides – and therefore the UK must uphold the judgment against the Orams. This landmark ruling had important consequences for all EU citizens who owned disputed land in Cyprus.

THE DEMOPOULOS DECISION 2010: The case concerned eight complaints made to the ECHR by Greek Cypriot refugees who claimed they had been deprived of their property rights by Turkey since August 1974. The claimants wanted restitution and compensation for this loss of use. Relying on Loizidou, they claimed that the IPC was invalid as the TRNC is unrecognised, and therefore any legal institution within it could not be recognised. Further, they argued that Greek Cypriots should not be forced to apply to a regime they do not recognise or to rely on mechanisms exercised in the *"occupied territory"*.

The Court rejected these views and held that the IPC was independent and impartial (Para. 120), offered adequate compensation (Paras. 121-123), and was an accessible and efficient local remedy (Para 124-126) for Greek Cypriot land claims. The ECHR attributed this remedy to Turkey, as the EU does not recognise the TRNC and the Court was at pains to emphasise this.

A crucial part of the judgement addressed petitions that require the eviction of existing occupants. Previously, third party rights had not been considered, but in this landmark ruling, a blanket right for restitution was ruled out – compensation was deemed a valid remedy too. It is worth noting the relevant clause (Para. 116) here:

It cannot be within the Court's task in interpreting and applying the Convention to impose an unconditional obligation to embark on the forcible eviction and rehousing of potentially large numbers of men, women and children even with the aim of vindicating the rights of victims of violations of the Convention'.

The Court also addressed the emotional attachment Greek Cypriots have to their former homes, which is a fundamental part of their demands for restitution (Para. 136). On the interpretation of the notion of "home", the ECHR emphasised that the issue must respect not only the intentions of the authors of the Convention, but also common sense:

"...it is not enough for an applicant to claim that a particular place or property is a "home"; he or she must show that they enjoy concrete and persisting links with the property concerned... ongoing or recent occupation of a particular property is usually the most significant element in the determination of the existence of a "home" in cases before the Court. However, where "home" is claimed in respect of property in which there has never been any, or hardly any, occupation by the applicant or where there has been no occupation for some considerable time, it may be that the links to that property are so attenuated as to cease to raise any, or any separate, issue under Article 8."

"Nor can the term "home" be interpreted as synonymous with the notion of "family roots", which is a vague and emotive concept"

In this regard, the Court is making clear that the lapse of time can affect the right of refugees to return to their former properties and emotional attachment for those absent from their homes for over 40 years have little or no right to view it any longer as their "home".

This historic ruling effectively sent the backlog of 1,500 ECHR cases back to Cyprus. Greek Cypriots were given a choice to apply to the IPC or wait for a political solution. Should an applicant not be satisfied with the IPC ruling, they have the right of appeal to the TRNC High Court and ultimately to the ECHR once all domestic remedies were exhausted.

The principles established in Demopoulos were challenged and reasserted in several other cases, including Asproftas and Petrakidou. However, the ruling has not yet been tested on the Orams case; it is likely that if another similar case arises in the EU, the respondent now has a valid defence that the Orams decision should not be followed.

THE SOFI CASE v REPUBLIC OF CYPRUS, 2010: After 1974, the RoC established a Guardian system to care for properties left behind by Turkish Cypriots, which its authorities say will exist until there is a political solution on the island. For Turkish Cypriots seeking their property rights, the Guardian system has been found wanting in many aspects. Land has been developed without the prior consent of Turkish Cypriot owners, rent has not been properly collected, and Turkish Cypriots face many obstacles when trying to regain ownership of their property.

Turkish Cypriot Nezire Sofi sued the RoC for refusing to recognise her rights to property in Larnaca. This test case was heard at the ECHR and it highlighted how the RoC's existing Guardian Laws violate the human rights of Turkish Cypriots who formerly owned land in South Cyprus. The RoC agreed to an out of court settlement with Mrs Sofi. It conceded there is no effective domestic remedy for Turkish Cypriot claims and agreed to revise its laws.

KAZALI AND OTHERS v REPUBLIC OF CYPRUS, 2012: After failing to get any satisfaction for their property rights in South Cyprus, nine separate Turkish Cypriot applications were made to the ECHR. This included two applications for ten claimants who formerly lived in the Turkish Cypriot village of Yağmurlan, also known as Vroisha, located in the foothills of the Troodos Mountains in the Tylliria region. In 1964, they were forced by Greek Cypriots to evacuate their village under duress, and their homes and village were razed to the ground.

Today the derelict village has been left to the wilderness and attempts to recover it have been steadfastly refused by the authorities in the South. A test case involving a few of the residents was heard at the ECHR. However, the court ruled against the claimants because they had not exhausted all legal avenues in the South. Pointing to the Sofi case, the ECHR judges claimed the changes made since 2010 would make it easier for their claims to be processed locally. To date, the nine have still not been able to recover ownership of their property or receive any compensation.

In his book *Yağmurlan (Vroisha) in Cyprus History*, author Esat Mustafa highlights the fact that no foreign legal experts sit in on cases involving Turkish Cypriot refugee properties in the South. All judges are Greek Cypriot, and so neither impartial nor independent of the Republic of Cyprus. Mustafa compares this to the IPC in North Cyprus, where four of a panel of seven ruling on disputed cases are non-Cypriot legal experts from Europe. He argues that as a result, the South still does not offer an effective legal remedy to Turkish Cypriot refugees seeking their property rights.



Vroisha / Yağmurlan pictured in 2004. The village has been deserted since its Turkish Cypriot inhabitants were forced out in 1964

THE FATE OF GÜZELYURT / MORPHOU

Güzelyurt, also known as Morphou, in the island's northwest, best illustrates the growing challenges of restitution for refugees due to the passage of time.

The 1960 census for the town showed 6,480 Greek Cypriots living there, along with 123 Turkish Cypriots, and 43 Maronites. Many of the surrounding villages were also predominantly Greek Cypriot.

According to the TRNC's 2011 Census, 10.5 percent of the North's population – some 30,000 people, many of them displaced from the South in 1974 – now live in Güzelyurt district. The numbers have risen since then, as has development in the area, including the expansion of universities, a major new hospital, and new homes for the area's growing population.

In earlier Cyprus Talks and proposals, including the 2004 UN Annan Plan, Güzelyurt and surrounding villages would have reverted to Greek Cypriot control under a future federation, along with the currently empty Maraş/Varosha near Famagusta. Under these earlier plans, Turkish Cypriots would move out to make way for Greek Cypriot refugees, who would have all land and property they had lost during 1974 returned to them. Turkish Cypriots were to have alternative new accommodation provided in areas under Turkish control and, where appropriate, compensation paid for their losses.

Last summer, Nicos Anastasiades assured elected Morphou Mayor-in-Waiting Charalambos Pittas that *"the Cyprus problem cannot be solved without the return of Morphou."*

But there is now fierce resistance to these plans in the Turkish North. Many of Güzelyurt's current residents are themselves refugees, some several times over after being forced from their original homes in and around Paphos and Limassol. Unlike Greek Cypriots, Turkish Cypriots have no desire to return to their former homes, and it seems they will no longer tolerate being uprooted.

The current Mayor of Güzelyurt, Mahmut Özçınar, told TRNC daily Yeni Düzen that the town's current citizens arrived after the 1974 War, leaving their property in the south, and were given land of similar value: *"They rebuilt their lives here...From a humanitarian point of view, this Greek Cypriot wish cannot be granted."*

The town's current residents are supported by European Law. The ECHR's Demopoulos judgement of 2010 made it clear it would not correct an old injustice by creating a new one, and that the Court would not impose *"the forcible eviction and rehousing of potentially large numbers of men, women and children"* (Para. 116). These details seem to be falling on deaf ears in the South, and possibly at the Talks too.



Güzelyurt is now home to 30,000 Turkish Cypriots, many also refugees. Picture from Güzelyurt Orange Festival 2017

WHY THE TRUE OWNERS OF VAROSHA/MARAŞ MATTER

The land rights for Varosha, or Maraş in Turkish, like Güzelyurt, are another hugely contentious issue. The town's fate will have a major bearing on Cyprus' property and territory issues.

Once a holiday resort famed for attracting British and Hollywood stars, Varosha became a ghost town after the 1974 War. Located on the island's east and currently within the TRNC's borders, the town is popularly – and erroneously – believed to be solely owned by Greek Cypriots. A perception deliberately cultivated by those in the South.

Under the 1979 High Level Agreement, the future resettlement of the town has priority status. The UN and European Parliament have passed resolutions demanding Varosha is returned to its “lawful” inhabitants, while Greek Cypriot politicians regularly propose their citizens be allowed back to “their” properties as a confidence-building measure that builds towards a final settlement. But this masks the truth about who actually owns Varosha.

Property records for the town, which is 2.3 square miles large, show it is virtually all Turkish-owned. Title deeds held by Evkaf (short for Kıbrıs Vakıflar İdaresi in Turkish – or the Islamic Trust of Cyprus) covers some 500,000 dönüms – in other words, 90% of the town. Until recently the Trust's property rights in Varosha, as well as elsewhere on the island, had been totally ignored.

Historically, Cyprus' Islamic Trust dates back to conquest of the island by the Ottomans in 1571. Soon after, the Sultan passed an edict to establish Evkaf. This enabled Muslims in Cyprus to bequeath property and assets to Evkaf for the benefit of the island's Muslim community. The edict expressly states that the rights governing Trust property are *‘irrevocable, perpetual and inalienable’*; should the Trust ever be deprived of any of its assets, it must be fully compensated for its losses.

Evidence shows that under British rule, Evkaf land was illegally transferred to others. Britain had prised the island away from the weakened Ottomans in 1878, and during the First World War, Cyprus' status changed from a ‘British Protectorate’ to being ‘under occupation’, before becoming a Crown colony in 1922. Evkaf's role, rights and assets remained intact, as set out in Article 60 of the 1923 Treaty of Lausanne, which stated that any trusts created under the Ottomans would be maintained under British rule.

This same principle was also included in the Republic of Cyprus' Constitution of 1960. Article 110, which stated that *“no legislative, executive or other act whatsoever shall contravene or override or interfere with such Laws or Principles of Vakfs.”*

Under Annexe E of the 1960 Treaty of the Establishment of the Republic of Cyprus, it also states that *“all legal liabilities and obligations incurred by the government of the Colony of Cyprus”* are passed on to the new Cypriot Government.

Evkaf asserts it is the island's largest private landowner. Research carried out by a team led by Dr. Nazif Öztürk reviewed title deeds and land registry records for 2,220 separate Vakıfs (trusts) in Cyprus. A special computer programme was designed for this task at London University. The computer analysis took three years to complete, with the data available in 2013. The findings lead Evkaf's new chair Prof. İbrahim Benter to believe the total land owned by Evkaf, which is the umbrella body for all religious trusts in Cyprus, is potentially as high as 35%.

For some, this seems to be an exaggerated claim, underpinned by a common myth that Turkish Cypriot leaders Denktaş and Küçük had authorised the sale of various Evkaf lands for £1.5 million. However, no such sale ever took place. The confusion arises from Appendix U of the 1960 Treaty of the Establishment, which stated that the British Government was, *“making available the sum of £1,500,000*

by way of a grant to the Turkish community in Cyprus to be used for education, the development of Vakf property and cultural and other like purposes."

Indeed, during Britain's occupation, the Trust regularly challenged the unlawful transfer of its property in the law courts – *and won*. Key law suits where Evkaf ownership rights were upheld include the Arabahmet Aqueduct case in Nicosia in 1914, and the Tersefan Farmland action in Larnaca in 1958. These and many other similar cases during this period demonstrate that the laws protecting Evkaf's rights were valid and operational under British rule.

Although the Republic of Cyprus was bound by law to uphold Evkaf's property rights, these were quickly disregarded. Following the outbreak of the conflict in December 1963, Evkaf land, like other Turkish Cypriot property, was seized and re-allocated to Greek Cypriots. Over the years, these new occupants have mistakenly come to view Evkaf property as *"theirs"*, backed by the Greek Cypriot authorities.

Following the 1974 War and Cyprus' partition, all land formerly owned by Evkaf in the North was restored to the Trust. However, it has been unable to recover its property in the closed off town of Varosha and those located in the southern part of the island. As such, Evkaf is currently deprived of some 60% of the total assets it claims to own across the island.

While the Greek Cypriots have been lodging cases at the ECHR against Turkey for the recovery of their property, Turkish Cypriot authorities advised Evkaf and other Turkish Cypriot land owners not to follow suit. Indeed, the TRNC Parliament passed a law preventing such action. This was to ensure the Turkish side presented its property claims *en masse* at the negotiating table as part of a global property solution.

However, the Xenides-Arestis case of 2005 proved to be a turning point. Evkaf was not a party to the Arestis case heard at the ECHR, which ruled that a local body be created to find legal remedies for the claimant and other property cases involving Greek Cypriot refugees. Once the TRNC's Immoveable Property Commission (IPC) was established, Evkaf also applied to challenge those claiming ownership of its assets in North Cyprus.



Game changer: Evkaf's extensive Cyprus land ownership claims includes 90% of Varosha / Maraş. Photo © Yudina

During various hearings, the Trust's lawyer presented evidence from the Famagusta Land Registry showing the Arestis land was actually owned by the Abdullahpasha Vakfı and had been unlawfully transferred to a Greek Cypriot. Copies of transactions dated September 1913, October 1949 and February 1974 show the unlawful transfer of Evkaf land, which also failed to record either the amount or the purpose of the exchange. So in addition to being constitutionally "estopped", the contracts were also illegal as there was no consideration (payment).

Unsurprisingly, Greek Cypriot refugees objected to Evkaf's application to join their cases. However, the TRNC's Constitutional Court ruled that it was important to determine the lawful owners of property before compensation, restitution or exchange could be agreed. The Trust's comprehensive evidence persuaded the Court that Evkaf be admitted as a party to all IPC claims involving Varosha.

TRACING EVKAF PROPERTY OWNERSHIP: In recent years, Evkaf has started to engage the wider community about its extensive land rights. At a press conference at the Golden Tulip Hotel, North Nicosia, in April 2016, Evkaf's chair Prof. İbrahim Benter and colleague Dr. Nazif Öztürk shared the findings of their latest research. It shows that in 1878, before the British assumed control over Cyprus, 14% of the



Bekir Pasha Aqueduct, Larnaca, was one of many projects financed by Ebubekir Pasha, Governor of Cyprus, who bequeathed his property to EVKAF when he died in 1757-8. Photo © Dickelbers Wikipedia/CC licence

island's total land mass was owned by Evkaf. Under the British, that fell to 0.6%. Further analysis of newly available data suggests the overall figure for Evkaf land ownership could be as high as 35%.

For years, the Trust has been inspecting land registry archives, reviewing and cross-checking thousands of record books and 8 million documents as part of its Cyprus Trust Property Research and Review project co-ordinated by Dr. Öztürk. Through these, the Trust identified it owned 2,200 different Muslim assets across the island, including mosques, schools, and other public sites. These have all been confirmed and their locations mapped.

Citing one example, Dr. Öztürk said that records showed there were 400 mosques in Cyprus, with the buildings and land they were built on belonging to Evkaf. Most mosques were situated in South Cyprus. However, the total number of mosques had fallen to 190 under the British. His research also found that title to land in Maraş/Varosha was primarily owned by three Turkish Islamic trusts: Abdullah Paşa, Lala Mustafa Paşa and Bilal Ağa.

During the conference, which was widely covered in Turkish Cypriot media, Prof. Benter also announced that the Trust was starting a new phase where it would be seeking to reclaim its property rights through the Cyprus and international law courts.

Prof. Benter said: "When it comes to property at the negotiations, and when they asked for Evkaf's inventory, we need to be ready. For it to be a fair agreement, we need to prove our ownership of Trust property using evidence that meets international legal standards."

He added that evidence proving property in Maraş/Varosha is Trust owned had been upheld in the TRNC courts. If required, Evkaf would also apply to the ECHR for its rights, but first it would need to exhaust all legal avenues in the TRNC and South Cyprus.

By changing its stance from passive bystander post 1974, to pro-actively defending its real estate, Evkaf is a major game changer in the Cyprus Problem. Its property rights, as enshrined in Cyprus law and international treaties, require compensation in land of equivalent scope and value.

Prof. Benter has demanded that Evkaf property rights are championed at the negotiations. Given the significance of its assets in the South, there are huge implications for how much compensation the Greek Cypriot side owes, as well as the overall calculations of property and territory the two sides could swap.

LEARNING FROM OTHER CONFLICTS

Drawing on the experiences of other conflicts can help Cyprus resolve its own property issues. Germany after the Second World War, and again after reunification, along with current events in Israel, and even the EU, Britain and Brexit all offer important lessons.

For communities emerging from a conflict, a crucial part of the healing and reconciliation process is addressing the violations committed against them. Building a peaceful future requires righting the wrongs of the past. How this can be achieved changes with the passage of time, but many victims of conflict and injustice have benefited from a programme of compensation and reparations.

This was the case for victims of Nazi Germany: those trying to flee the persecution across Europe were often forced to sell their homes under duress. Subsequently, the victims or their descendents were allowed to claim restitution and compensation for their losses, backed by international law. This form of restorative justice has also been applied in the post Cold War era, and after other armed conflicts including Bosnia.

Parallels exist with the plight of Turkish Cypriots, who as refugees during the 1960s were also forced out of their homes and in some cases, off the island itself. Many were obliged to sell their homes at very low prices to fund their survival, or to try and escape abroad. In these circumstances, they too should have the right to seek compensation for receiving below market prices for their property.

The case of German reunification in 1990 is an example of not to underestimate the massive costs involved in bringing together two disparate states. During the restructuring process, it became apparent that neither East nor West Germany could afford to pay the full cost of property compensation if these were calculated using current market prices. Much of the burden fell on West Germany's shoulders and the country's economy stalled severely.

To improve the situation, Germany changed legislation and introduced the Law of Impediments (Hemmnisbeseitigungsgesetz). This gave priority to investors who could demonstrate continuation and further improvement of the business based on a particular piece of land, over the right of the original owner and restitution. Under such circumstances, the original owners were compensated financially. This practical approach reflects one of the key tenets of the Demopoulos case: land has a financial value and compensation for lost land reflects this; there is no overriding need to return the real estate to its former owner.

Cyprus' future wellbeing also depends on a successful economy that can support both communities. Essential to this is the confidence that business and industry have in reunification. For that to happen, they need to have certainty over the continuity of ownership of land and property their enterprises are based on. So long as doubts exist about ownership of these vital assets, investment will not be made or worse, it may result in the diminution of existing investment.

For these reasons, it is important to avoid scenarios where legal battles between former and current owners are allowed to take place, which could last for years or even decades. Clarity and swift decisions are necessary to business development.

And it's not just businesses, but ordinary citizens who also need certainty and state support. A settlement will invariably mean the dislocation of people and the state needs to be prepared to accommodate the immense human cost, helping people to bear the social, economic and emotional impact of the move.

In newly reunified Germany, newspapers carried reports of suicides prompted by the strains of original owners or their heirs demanding their former homes back. One such tragic case involved 48-year-

old Detlev Dalk, a well-regarded local councillor in Zepernick, a town in former East Germany, who hanged himself in 1992 as a desperate act of protest against being forced out of his home.

Another area of concern is during a fragile peace, how to prevent one community from further colonisation of territory, especially when this is fed by religious nationalism. Cyprus' near neighbour Israel amply illustrates this problem. The country is awash with illegal settlements built on Palestinian land. If 'Special Zones' are permitted in North Cyprus with large numbers of Greek Cypriots living in mixed towns that is co-managed by both authorities, what is to stop West Bank-style settlements being built there too, especially given that influential actors promote the idea that the whole island is "Greek"? A very real consequence of this could be the outbreak of new inter-communal disputes and fighting.

Even without illegal settlements, the prospect of vast numbers of people speaking a different language and practicing a different faith moving into existing communities can be extremely unsettling. We've seen this across Europe: refugees fleeing war-torn Syria, Iraq, Africa and Afghanistan have received a hostile reception in many communities. Even European migrants, whose lifestyles and values are more similar to their hosts, have not been tolerated in some EU countries.

In Britain for example, by 2016 the number of EU migrants had grown to 2.9 million, many coming from Eastern Europe. Although the percentage amounts to less than 5% of Britain's total population of 63.7 million, many Britons came to resent their presence, and immigration became the primary issue in last year's EU referendum, with Brexit edging the vote. Whether actual or perceived, many Britons feel the rapid influx of migrants have added huge pressure on their public services, undermined British workers and the British way of life. A sense of bitterness and anger has festered across the country, giving vent to an explosion in hate crimes this past year – police forces across England and Wales have reported an increase of between 50% and 100% of incidents.

If speculation around the Cyprus Talks is to be believed, Turkish Cypriots could find Greek Cypriots equal to a third of their entire population move into North Cyprus in a short space of time. Given the limited contact both sides have had with each other for over fifty years, this will present serious challenges. Adding fuel to the fire will be the demand for the mass dislocation of Turkish Cypriots from their current homes, to make way for Greek Cypriot refugees. The prospect of trouble under these circumstances must be very high.



A 5% increase in UK immigration fuelled racism and turned it into the primary issue in the Brexit campaign. Photo of an English Defence League march in Newcastle, 29 May 2010 © Gavin Lynn / CC licence

HOPES AND FEARS OF BRITAIN'S TURKISH CYPRIOT DIASPORA AND EXPATS

Cyprus' biggest Diaspora lives in Britain. Estimates on numbers vary from several hundred thousand to a half-a-million people. Most were born and raised British, but over the past decade, as EU citizens many Cyprus-born individuals have also migrated to the UK. This large Cypriot community includes former refugees, and thousands of Turkish Cypriots who have moved to escape the embargoes.

The UK Diaspora has strong links with Cyprus through their family connections, investments in property, and businesses. Many also have dual citizenship.

Aside from British Cypriots, Britain maintains its own long and close connection to its former colony through its sovereign military bases. The island is also a favoured holiday destination for Britons: over 1.5 million visit each year. A life in the sun has tempted thousands of Brits to make this small Eastern Mediterranean island their permanent home: there are reportedly some 65,000 British citizens in South Cyprus, and a further 5,000 - 15,000 living in the North.

The Cyprus Talks have a huge bearing on the future of all these people too. Yet many British stakeholders feel excluded from the negotiations, and their concerns marginalised.

In October 2016, Embargoed! hosted a symposium entitled "Future for Cyprus". The event was called to address the perceived gap in communication between the sizable Turkish Cypriot Diaspora of Britain and North Cyprus decision makers. The attendees were keen to stress their support for the current Cyprus Talks, but also to share their anxieties about the negotiation process, and were eager to have their views heard so that any arrangement reached would reflect their specific needs too.

Earlier in 2016, a separate seminar in London was staged by Embargoed! and the Vroisha Association about Cyprus Property. This report is informed by contributions made at both these events.

INDEFINITE DEFERMENT OF RIGHTS: One of the common complaints heard from Turkish Cypriot refugees with property in the South is the difficulty they face in having their rights recognised. Unlike the IPC in the North, there is no dedicated property commission in the South. Instead applicants must navigate their way through numerous layers of bureaucracy and a complex legal system, which seems, at best, un-cooperative and, for many, to purposely obstruct Turkish Cypriot claims.

One person who left behind six separate houses in a deserted Turkish Cypriot village, spent £100,000 on lawyers' fees and travelling expenses over an 8-year period, but was still unable to obtain full title-deeds from the Greek Cypriot authorities. Under the guise of 'due process', the entire land compensation system in the South seems structured to delay and block such applications until there is a final settlement of the Cyprus Problem. In other words, compensation is not granted, but simply deferred, potentially forever.

These grievances have created much mistrust between Turkish Cypriot owners of property in the South and the Greek Cypriot authorities, which is likely to carry over into any new arrangement between the North and South.

EXPATS VERY WARY OF CYPRIOT AUTHORITIES: Both sides of the island have experienced house sale "scams", where foreign buyers have lost their investments and even homes due to unscrupulous developers and lawyers. Deeds which rightly belong to the new owners have not been transferred, and in some cases punitive hidden charges were placed on the new owners, which have caused huge distress to often elderly people who staked their life savings on these property investments. The problem is so widespread that a British Parliamentary All-Party interest group was established so MPs could support their constituents by lobbying the South Cypriot government on their behalf.

Sadly, neither the authorities in the North or the South have resolved the situation, leaving hundreds of people adversely affected: they have lived through years of uncertainty and huge legal costs, forced to battle individually to protect their property rights. Not surprisingly, many expatriates take a dim view of the Cypriot authorities on both sides and are very wary of any claims that their rights will be protected in a future settlement.



British expats discuss likely impact of the Cyprus Talks during Embargoed!'s Future of Cyprus Symposium, Oxford & Cambridge Club, Nov. 2016

They raised many concerns about the potential outcomes of the current talks between Greek and Turkish negotiators, and what it could mean for their properties and long-term stay on the island. There has been no commitment to safeguard the rights of non-Cypriot residents, some of whom have lived or owned property on the island for decades. They want to enjoy the same property rights as those afforded to local citizens. Put simply, they should not be allocated a lower

priority when it comes to the resolution of disputed properties but, as set out in the Demopoulos Ruling, as current owners they should be legally protected too.

Expats want the two leaders to expressly set out their plans for the rights and entitlements of non-Cypriot residents, and for their legal rights to be captured and enshrined in any future settlement agreement. They see the wider international community, including guarantors Britain, Turkey, and Greece, as well as the EU as key to achieving this.

Such an arrangement is not only crucial for the affected foreign residents and investors in Cyprus, but also vital to the local economy. Expat communities make a significant contribution to the gross domestic product and inter-cultural enrichment of the island, so their continued presence is an important indication of the wellbeing of Cyprus.

HOPES: Property owners in North Cyprus view the prospect of a final settlement as hugely important. This will not only end the international isolation of the North, but also mean title deeds issued by the Turkish Cypriot authorities are globally recognised. The stigma of buying property from this currently unrecognised territory will also be removed, making the land more attractive to foreign buyers and increase the value of the land in line with property prices in the South, which in turn will boost the economy.

Turkish Cypriots with land interests in the South believe a solution can generate a faster, more transparent and less biased process for dealing with their property rights. At the very least, a dedicated body will be created that includes impartial adjudicators.

FEARS:

Funding deficit/misleading promises: British Turkish Cypriots with homes in areas such as Güzelyurt were vocal about the exaggerated promises they were made before the Annan Plan vote. In order to encourage their relocation to new homes, pictures of large new villas with swimming pools were distributed across the district, yet in reality there was no real funding to deliver this.

For people being asked to relocate, it is vital they are not given misleading information. Moreover, there is little sense in promoting a resolution if the necessary funding for the agreed compensation is not available. This would create false expectations which will not be met, creating resentment and anger, and inevitably undermining and destabilising the newly formed Cypriot state.

Racism and nationalism: At both events, attendees also voiced their doubts about whether a peaceful resolution is possible at this time. Those resident in Cyprus point to racist attacks in the South against those from the North. Several people were targeted or knew of others who were. These incidents seem to mainly occur when people are travelling in the South in cars with TRNC number plates, and are subjected to verbal, and in a few cases, physical abuse. Some have had their parked vehicles damaged.

Since the borders opened in 2003, there have been dozens of attacks on Turkish Cypriots in the South, which have dramatically increased over the last three years. These include an attack in 2014 by far-right ELAM supporters at an event in Limassol where former TRNC President Mehmet Ali Talat was speaking. In June 2016, a group of suspected young ELAM supporters tailgated a car carrying Turkish Cypriots returning from Ayia Napa after a night out. The TRNC-plated car was rammed from behind and its path blocked, before the extremists, armed with metal bars, attacked the car and passengers. In February 2017, cars of Turkish Cypriots staying at a hotel in the Troodos Mountains were vandalised. Even where people have been apprehended, none have ever been successfully prosecuted.

Other examples were cited too: a Greek Cypriot potato trader in the South was threatened for doing business with Turkish Cypriots. Among those protesting outside his firm were DISY and ELAM MPs. Separately, a footballer from the South received death threats for signing to a Turkish Cypriot football club, and was forced to go into hiding for his own safety.

These incidents and the lack of action by the Greek Cypriot authorities to combat clear hate crimes have caused serious reservations on the part of both Turkish Cypriots and expats about life in a united Cyprus, and the potential serious consequences of any future attacks.

Mass migration & forced evictions: A major trigger for such fears is news that between 70,000 and possibly as many as 100,000 Greek Cypriots could be relocated in Turkish North Cyprus. Allowing the equivalent of one third of the existing population to settle within a very short time would create major tensions in any community in any part of the world. But in a country where people are still plagued by the trauma of conflict, regard each other as "the enemy", speak two different languages, practice two different religions, and have different histories and cultures, the likelihood of social problems boiling over is immense.

Stoking this fire will be property disputes. The scale of the disputed territory means that hundreds of thousands of people will be in conflict with one another over land and property.

Attendees at Embargoed!'s property events were also worried by stories that have appeared in the press, which seem to suggest the Cyprus property issue will be addressed on an individual basis using a large and complex criteria. This includes giving former owners preferential treatment, while foreign residents and Cypriots where the property is not their primary



British Turkish Cypriots discuss their concerns at the Cyprus Property Seminar, Jan. 2016

residence will be pushed down the priority list, making restitution for former owners more likely.

Following January's Cyprus property seminar, Vroisha Association chair Esat Mustafa told T-VINE Magazine: *"Information about the actual solutions being discussed is very sparse, and what there is, is often contradictory. Turkish Cypriots attending the seminar were all perplexed about why their side is not arguing for a global exchange solution, whereby people are compensated for their loss of property without destroying many stable and settled communities. The Demopoulos case clearly states people should not be forcibly uprooted – it's an important principle both leaders should adhere to."*

Population caps: Another major source of anxiety is that Turkish Cypriot citizenship will be capped to ensure the ratio between Greek and Turkish Cypriots remains 4:1. Many UK based Turkish Cypriots, especially those holding dual nationality, fear they will be stripped of their TRNC citizenship, which in turn will further undermine their property rights. Others who are of Turkish Cypriot heritage and would be normally entitled to citizenship in the TRNC wonder whether this right will be withdrawn completely for them.

Hypocrisy over "settlers": The discussion around settlers centred on what some attendees described as the "ludicrous objections" of the Greek Cypriot authorities to Turkish settlers given the parallel situation of foreigners in South Cyprus. A consistent demand of Greek Cypriots is for the bulk of Turkish settlers to be removed from the island following a political settlement.

Mete Hatay's 2007 PRIO study into the demographics of North Cyprus emerged from ongoing allegations that the Turkish Cypriot population was "shrinking" in light of significant immigration from Turkey. Yet he concluded that this was emphatically not the case. He reported that the population of Turkish Cypriots in 1974 was almost 118,000. Thirty two years later, the TRNC 2006 census showed that out of the 178,031 TRNC citizens, the native Turkish Cypriot population (one or both parents born in Cyprus) numbered 132,635.

Hatay's PRIO report noted that 24% of TRNC citizens are naturalised Turkish migrants, many of whom have been living in Cyprus for some 30 years and have married Turkish Cypriot partners. The 2006 census showed that the non-TRNC citizen population was 31%, of which 27.5% came from the Turkish mainland, with 3.5% for other nationalities.

A fresh head count in the TRNC in 2011 found the total resident population to be 286,257 (this included university students, but not the Turkish army). Of these, TRNC citizens totalled 190,494.

In the South, the Republic of Cyprus 2011 census showed the population in the areas it controls as 838,897. Of these, 21.4% were found to be non-Cypriot. These results mean Greek Cyprus has the second highest percentage of foreign residents in Europe (Eurostat 2014). These migrants include mainland and Pontus Greeks, Russians, Georgians, Bulgarians, Romanians citizens. The Russian and Georgian immigrants are not even beneficiaries of the EU's normal free movement rules.

Attendees at Embargoed!'s events also highlighted the fact that Cypriot citizenship is being "sold" to non-Europeans for €2 million per person, giving wealthy investors and their families access to unrestricted right to live, work, own and operate a business, and to travel and study anywhere in the EU. In recent months, there has even been an application in the Greek Cypriot Republic for the establishment of a Russian political party for 40,000 Russian Cypriot citizens. There is no cap on the number of Russians or other nationalities becoming Cyprus citizens. This is in sharp contrast with the Greek Cypriot demand that in a new federation, Turkish Cypriot citizen numbers would be capped to 20% of total population.

OVERVIEW: British Turkish Cypriots and expats are vocal about the fact no one seems to care about, let alone want to listen to their concerns and needs, yet decisions on property and citizenship will have a huge and lasting impact on their lives too. Communication is vital, especially given that many of the issues raised are also matters of concern for the wider community in North Cyprus.

RECOMMENDATIONS

This report was spurred on by Turkish Cypriots in Britain and expats invested in North Cyprus who feel neglected. Their hopes and fears reflect those of many others on the island. They urge the two leaders to be positive yet responsible in their dealings with property and territory, and heed these very real concerns.

These recommendations are geared towards ensuring a fair solution for all stakeholders. Some of the measures can be adopted without a comprehensive political settlement, and indeed international pressure should be brought to bear on the authorities to step up their efforts to resolve this long-running problem and ensure affected parties are not subject to expensive slow action in the courts.

This alternative process to progress land and property issues will ultimately help to improve trust, security and co-operation between the two communities, aiding a potential future political settlement.

Each side should:

1. Undertake a comprehensive **land ownership audit**, both past and present, including taking stock of any development on disputed land, and make these findings available to stakeholders. A timescale of, say, three years should be agreed for this investigative work. Any such audit must address the Evkaf land claims and not ignore the violation of its rights.
2. Use the audit data to **inform plans on the likely costs** to resolve the property issue and the impact on Cyprus' two economies. This, in turn, will focus minds on the most cost-effective options, particularly exchange.
3. **Strengthen local remedies**: the Greek Cypriot authorities in particular should end deferment of claims and set up a parallel property commission using European legal experts so Turkish Cypriot refugees have greater confidence in the South's legal system and the impartiality and independence of adjudicators. The Greek Cypriot authorities should also stop trying to discourage its citizens from seeking their property rights via the North's IPC.

In the North, Turkish Cypriots should invest more heavily in human and financial resources, so its IPC can conclude claims even faster. Those awarded restitution should have the right to live in the North, if they so wish.

In the event of a political settlement, the workings of these two separate property commissions can be harmonised and merged as part of a new single national body with two branches.

4. Agree that the criteria on the **resolution of disputed property is now based on the ECHR's Demopoulos Ruling**, which encompasses the rights of both former and current owners, while minimising elements such as "emotional attachment", which should have negligible impact on decisions on property dating back 43-53 years.
5. **Open Varosha**, in line with the High Level Agreements. The ghost town should not be used as a bargaining chip. To facilitate this, the real owners should be legally confirmed so compensation or other forms of dispute settlement can be agreed by the affected parties.
6. **Reality-check** by preparing their communities for change: for Greek Cypriots this means accepting that the clock cannot be turned back to 1974, and that new injustices cannot be committed to rectify old violations, bi-zonality is a vital component in a re-united Cyprus, and that "settlers" on both sides are here to stay. For Turkish Cypriots and other owners in the North, it is the realisation that legal certainty over property ownership comes at a price: compensation will need to be paid

and quickly to settle with former owners. Turkey cannot be relied upon to cover all such costs and individual owners, as well as their community leaders, need to plan ahead: remedies such as exchange and restitution are likely to play a greater part in settling property claims.

7. **Prevent people already compensated** for their losses through the existing Immovable Property Commission or equivalent remedies in the South from making any further claims.
8. **Stop media speculation**, yet undertake regular communication with property owners. There is nothing to be gained by remaining silent and detached from these stakeholders, who need to be reassured about their future. This includes addressing the Greek Cypriot community's anxieties about their fragile economy being left to shoulder the burden of reunification, and foreign property investors being given cast-iron guarantees their rights will be protected too.
9. **Speed up solutions for major private landowners.** By resolving property disputes involving Evkaf, the Church, and other major private landowners first, this will create certainty over the future of a large swathe of land across the island. Such certainty can help with territorial adjustments and other provisions needed to resolve the wider Cyprus Problem.

To aid a negotiated comprehensive political settlement, the international community (including the EU) and Guarantor Powers should work with the two communities to:



Vroisha chair Esat Mustafa (L) and Embargoed!'s Fahri Zihni at the Cyprus Property Seminar, Jan. 2016

- A. Work on the principle of **global, not individual, property solutions**, which are vital in conveying to Cyprus' diverse property owners precise information about what solutions and actions will take place after a settlement. It is inevitable some property owners will be upset by these outcomes – this is true for whatever property proposals the leaders agree upon – but the certainty of outcome will boost overall confidence, while a global solution will bring about rapid closure for the affected parties.

- B. **Simplify property claims:** Any settlement should avoid complicated categories for property claims. The criteria to determine ownership should be based on the Demopoulos Ruling, with a realistic set of options as remedies, so former and past owners receive full satisfaction from the outcome. This can include part restitution or shared ownership, alternative property exchange, etc.
- C. **Create a financial pot** to assist with property resettlement costs. Whatever commitments the international community, such as the EU, USA, or World Bank make must be communicated clearly, so there is absolute certainty and confidence in the planned solutions and funding behind it.
- D. Determine the value of loss and compensation **due to each side as a bloc**, using realistic market values. In the interests of swift and equitable outcomes, these may not be exact figures for each individual case, but rather reasonable, fair and just estimates based on the information from the audits.
- E. Pay any **compensation due** via the relevant branch of the property commission.
- F. Make the **necessary territorial adjustments** to the current North/South areas, helping to bring more land into play for restitution and exchange.
- G. Ensure **individuals avoid direct dealings**, thereby minimising the risk of conflict, while ensuring fair settlements are reached using the appropriate criteria.
- H. **Avoid inflaming tensions** by through circumstances such as mass evictions, mass migration within existing communities, and 'Special Zones' where its identity and authority is unclear.
- I. Work towards a **long-term vision of Cypriots living freely together, side-by-side** in any part of the island they wish. It's an ideal that requires hard work by all stakeholders if it is to become a reality at some point in the future. It starts with the world treating both communities as two political equals and not discriminating against either, helping to normalise life on the ground. Steps to bring this vision into reality must include programmes for "Truth and Reconciliation", with sufficient time and resource allocated to this task as necessary to ensure that there is mutual understanding and respect between all Cypriots.

In turn, each side must live up to its obligations to the other. For example, taking firm action against the perpetrators of hate crime, protecting the other community's property and heritage sites, and upholding minority rights, which should not be subject to populist interventions and sanctions.

The EU and Guarantor Britain have a vital role to play in this regard. They must deliver on their 2004 promises to ease the isolation of North Cyprus, irrespective of the outcome of the negotiations. By continuing to hide behind the Greek and Greek Cypriot veto, the EU in particular has damaged its claims to be an honest broker; instead it needs to re-establish lost credibility as far as the Turkish Cypriots are concerned.

CONCLUSION

If property is the lynchpin of a permanent peaceful solution to the long-running Cyprus Conflict, then the framework and criteria the leaders present to their respective communities are crucial. From the start, the terms must be clear, just and certain for all stakeholders. Ambiguity creates uncertainty that could hamper support for a settlement plan and undermine confidence in the newly unified state.

Property ownership is an emotive subject that needs sensitive handling. Pitting past and present owners against each other by demanding cases are resolved through individual claims is simply unrealistic, reckless and dangerous.

So too is encouraging expectations that can't be met, which could enflame the situation instead of resolving the conflict. The Cyprus Problem, and specifically the property issue, requires significant financing to underwrite the solutions proposed. It is imperative those funds exist at the outset before any promises are made to affected parties.

Should a deal be struck, both parties will be carrying baggage into their new "marriage". This momentous occasion would benefit from an extended honeymoon period that eases out existing tensions and builds up trust and confidence. Yet this fragile state of happiness could be snuffed out the minute the settlement is signed if individuals from communities with a history of conflict find themselves at loggerheads over property.

The island's refugees have endured enough delays and difficulties. Now they need their leaders to offer them certainty and closure. Current owners, both Cypriot and foreign, too do not want a situation where their futures are put on hold indefinitely as their largest assets are tied up in lengthy legal and social battlegrounds.

No party stands to gain by turning Cyprus into a lawyer's paradise, which in effect will burden individuals and communities with additional financial and emotional costs.

Yet there is no need to re-invent the wheel. Basing Cyprus' property solution on the Demopoulos Ruling offers many merits, including those noted below. To ensure its continuity, the Demopoulos judgment should be enshrined into the new Cyprus constitution and receive the protection of primary European legislation. This would:

- Provide a definitive, irrefutable, effective, efficient and pragmatic solution to the two communities to start from a position of certainty.
- Avoid volatile situations and possible conflict between hundreds of thousands of original and current owners of property.
- Prevent delays which could last many decades and provides immediate resolution to 5-10% of original property owners who are still alive or the descendants of those who died. These people have already been waiting for a resolution up to 53 years for a resolution.
- Prevent the creation of a new wave of refugees, potentially 40-60,000 people, and all the socio-economic problems associated with that.
- Protect the Turkish Cypriot side from being overrun by large numbers of people from the South that could potentially create the conditions for new inter-communal conflict.

- Enable business and industry to progress without the risk of blight on property arising from long periods of uncertainty in ownership.
- Address the ownership claims of everyone affected by the two periods of conflict (1963-4 and 1974).
- Protect the rights of all current property owners, whether they are Cypriot citizens or other nationalities, who have bought property in Cyprus.

The proposals that are presented to both communities and those who may not vote, but will surely be affected by them if adopted, must be viable and rooted in today's realities. They must bring about fast and fair remedies.

If it is not possible for the two leaders to achieve a comprehensive political settlement for Cyprus, the shape of the property solution has already been laid down by the European courts. It's time for all parties to work with these common sense verdicts, and finally put this property issue to bed.

WORLD	U.S.	N.Y. / REGION	BUSINESS	TECHNOLOGY	SCIENCE	HEALTH	SPORTS	OPINION
AFRICA	AMERICAS	ASIA PACIFIC	EUROPE	MIDDLE EAST				

Anguish of East Germans Grows With Property Claims by Former Owners

By STEPHEN KINZER,
Published: June 5, 1992

ZEPERNICK, Germany— This pleasant town in the former East Germany seems like a fine place to live. Houses are sturdy and handsome, trees line every street, and downtown Berlin is only 40 minutes away by train.


But behind the facade, Zepernick is facing a social and political crisis. More than half the houses here have been claimed by former owners or their descendants who now live in western Germany, and many residents are depressed and angry at the prospect of being displaced.


The conflict has already had tragic results. In March, one of the town's most popular politicians, Detlev Dalk, whose home was claimed by a former owner, hanged himself as an act of desperate protest.


Mr. Dalk, a 48-year-old town councillor, seemed to have a bright political future, and his health was so good that he had recently run in the New York marathon. But the prospect of losing his house, he wrote in a suicide note, "leaves me with no other possibility than public death."

A month after Mr. Dalk's suicide, a second resident hanged himself. The police said the man, Fred Haupt, was about to be evicted from his small house to make way for the former owner, a woman from western Berlin. Bitter Debate in Parliament

The question of who owns houses like those of Mr. Dalk and Mr. Haupt is one of the most urgent facing united Germany. The issue has set off bitter debate in the German Parliament, and has led many easterners to wonder whether unification was such a good idea after all.

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Israel plans more than 2,500 new settler homes to start Trump era



FILE PHOTO: A general view shows the Israeli settlement of Ramot in an area of the occupied West Bank that Israel annexed to Jerusalem January 22, 2017. REUTERS/Ronen Zvulun/File Photo

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By Ori Lewis | JERUSALEM

Israel announced plans on Tuesday for 2,500 more settlement homes in the occupied West Bank, the second such declaration since U.S. President Donald Trump took [office](#) signaling he could be more accommodating toward such projects than his predecessor.

A statement from the Israeli Defence Ministry, which administers lands Israel captured in a 1967 war, said the decision was meant to fulfil demand for new housing "to maintain regular daily life".

Most of the construction, it said, would be in existing settlement blocs that Israel intends to keep under any future peace agreement with the Palestinians. However, a breakdown provided by the prime minister's office showed large portions of the planned homes would be outside existing blocs.

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This is not an exhaustive list, but indicates important sources of information that helped inform this report.

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REMOVING POLITICAL ROADBLOCKS TO CYPRUS PROPERTY

*A British
Perspective*



This report can be downloaded from the Resources section (Property Issue) of: www.embargoed.org

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Front cover © ATG Images / Shutterstock: a doorway
in Bellapais in the Turkish Republic of Northern
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