



**REMOVING
POLITICAL
ROADBLOCKS
TO CYPRUS
PROPERTY**

*A British
Perspective*



**REPORT PREPARED BY EMBARGOED!
25 JULY 2017**

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' Immoveable 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.

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

1. 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.
2. **Prevent people already compensated** for their losses through the existing Immovable Property Commission or equivalent remedies in the South from making any further claims.
3. **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.
4. **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:



British Turkish Cypriots discuss their concerns 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.

REMOVING POLITICAL ROADBLOCKS TO CYPRUS PROPERTY

*A British
Perspective*



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

To contact Embargoed!: mail@embargoed.org

Front cover © ATG Images / Shutterstock: a doorway in Bellapais in the Turkish Republic of Northern Cyprus, 2016

Contents support: Prickly Pear

Design: Entesary Design