

# A Forgotten Promise: Ending the Isolation of Turkish Cypriots<sup>1</sup>

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## ABSTRACT

*Despite repeated calls and promises, Turkish Cypriots live in economic, political and humanitarian isolation. This paper tries to address one aspect of it and elaborates on the legal basis of these isolationist practices imposed on one side of the island. It challenges the international legal validity of the de facto sanctions. Furthermore, it claims that lifting economic isolation will also serve as a confidence building tool between Greek and Turkish Cypriots as well as between Turkey and the Republic of Cyprus represented by the Greek Cypriots since such an act will lead to Turkey's reciprocation and the normalization of relations with the Republic of Cyprus. It also argues that neither the UN, nor the EU has ever imposed any sanctions on Turkish Cypriots and the policy of isolation, as such, has only been practiced by the Greek Cypriots and the Greeks. This paper intends to clarify the distinction between sanctions and non-recognition. It also highlights the promises made by the EU to the Turkish Cypriots, in particular, the one made on April 26, 2004, when the Council of the EU proclaimed its commitment to end the isolation of the Turkish Cypriot community.*

On December 7, 2009, the General Affairs Council of the EU, in its declaration while praising Turkey for the achievements in democratization, human rights and good neighborly relations, expressed its deep regret that “Turkey, despite repeated calls, continues refusing to fulfill its obligation of full non-discriminatory implementation of the Additional Protocol<sup>2</sup> to the Association Agreement.”<sup>3</sup> However, the Council neglected to mention its own responsibilities and its own commitments with respect to the Association Agreement.

As it might be remembered, the European General Affairs Council declared on April 26, 2004 that the EU was ready to put an end to the isolationist practices, which were being imposed on the Turkish Cypriots for decades. The promise was made only two days after the simultaneous referenda<sup>4</sup> on the adoption of the Annan Plan, in other words immediately

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after the rejection of the plan by the Greek Cypriot side by a 75.8 percent of the votes casted.

In order to reward the Turkish Cypriots, the Council of the European Union pledged to lift the economic embargo and claimed that it was “determined to put an end to the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community.”<sup>5</sup>

The call to lift the isolation of Turkish Cypriots by the EU Council was followed by a similar call by the United Nations Secretary-General, Kofi Annan. In his report on his good offices in Cyprus, he called upon all states “to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development, deeming such a move as consistent with Security Council resolutions 541(1983) and 550(1984).”<sup>6</sup>

However, Turkish Cypriots still live in economic, political and even cultural isolation and repeated calls to end their isolation have landed on deaf ears. Turkey was criticized by the EU when it attempted to establish a political link between lifting the isolation of the Turkish Cypriots and Turkey’s custom union obligations in effect towards the Republic of Cyprus.

In this paper, we argue that there is no legal ground for the existence and maintenance of the Turkish Cypriot community’s isolation. Moreover, the de facto economic and trade embargo/sanctions imposed by the Greek Cypriots and the Greeks on the Turkish Cypriots have never been upheld by the international community. Neither the United Nations, nor the European Union has ever imposed sanctions on the Turkish Cypriots. This stand alone policy by the Greek Cypriots and Greece has over the years brought hardship to the Turkish Cypriots.

This paper states that lifting these sanctions would not imply a de facto recognition of a Turkish Republic of Northern Cyprus. We claim that if the Greek Cypriots and mainland Greece abandon their isolationist policies, it will serve as a confidence building measure between the parties and could trigger and further foster reconciliation.<sup>7</sup> This counters the most commonly expressed argument against lifting isolation, which is that such an act would amount to recognition of the Turkish Republic of Northern Cyprus.

However, under international law, isolationist measures, international sanctions and non-recognition fall into different legal and conceptual categories and

are not interchangeable. Hence, lifting the isolation would not jeopardize the United Nations Security Council resolutions 541(1983) and 550(1984). As it will be elaborated later, these two UNSC Resolutions do not call for sanctions but ask for support for the territorial integrity of the Republic of Cyprus.

### Three Regulations

As mentioned above, the European Council, two days after the referenda, unanimously issued a decision on the need to contribute to the economic development of the Turkish Cypriot community. In line with this declaration, the Commission devised two instruments to put this pledge into practice: the Financial Aid Regulation<sup>8</sup> and the Direct Trade Regulation.<sup>9</sup> The Council also adopted the Green Line Regulation<sup>10</sup> just before the official accession of the Republic of Cyprus to the EU, on April 29, 2004. This instrument was designed to regulate movement of persons, goods and services from the North to the South of the island.

The Regulation aimed at enabling Turkish Cypriots to sell their products in the South and to export to the EU markets via the ports and airports of the Republic of Cyprus. It also provided mechanisms to control the flow of persons and goods that enter the EU customs area. While the Green Line Regulation<sup>11</sup> and the Financial Aid Regulation<sup>12</sup> were put into practice after some political and diplomatic haggling, there is still no agreement on the implementation of the Direct Trade Regulation. Greek Cypriots and mainland Greece are avoiding the latter, considering its implementation obviously as tantamount to recognizing the Turkish Republic of Northern Cyprus.

The overall economic impact<sup>13</sup> of the Green Line Regulation remains weak.<sup>14</sup> It has not yet shown any signs of redressing the steep decline of trade by the Turkish Cypriots with the EU market after the Anastasiou ruling of the European Court of Justice in 1994.<sup>15</sup>

But to illustrate this point, it should be emphasized that while Turkish Cypriot trade with the countries of the EU represented 77.5 percent of total exports in 1980, in 2006 even with the “help” of the Green Line Regulation and the possibility to export to more countries as the EU enlarged substantially, it was only 14.8 per cent.<sup>16</sup> At the end of 2008, the Green Line Trade still represented only 12 percent of overall international trade because of the affect of isolation.<sup>17</sup> Consider-

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policy towards the Turkish Cypriot community by the Greek Cypriots began in 1963-1964. The behavior of the Greek Cypriots was criticized on September 10, 1964 by the United Nations Secretary-General, who concluded in his report to the Security Council that "...the economic restrictions being imposed on the Turkish community in Cyprus, which in some instances have been so severe as to amount to a veritable siege, seek to force a potential solution by economic pressure as substitute for military action".<sup>18</sup>

Two years later, the Secretary General acknowledged, once again, the dire situation of the Turkish Cypriots, as they were not allowed to import any commodities that could be considered as strategic supplies, thus eliminating whole categories of goods. "Most of these goods, however, had extensive civilian use, such as building materials and automobile replacement parts. In addition, other items... are often subjected to seizure at Cyprus [Greek Cypriot] police checkpoints..."<sup>19</sup> the Secretary General reported.

Today, the situation is even more paradoxical because the Greek Cypriots are the main trading partner of the Turkish Cypriots, while they relentlessly send messages to the rest of the world not to do business or trade with the Turkish Cypriots. Moreover, this isolation is not limited only to trade, as any kind of artistic, sports or political activity that could be identified as Turkish Cypriotic is sanctioned by the Greek Cypriots.<sup>20</sup>

### **Arguments Used Against Lifting the Isolation of the Turkish Cypriots**

There are basically three arguments formulated by the Greek Cypriots against lifting isolation imposed on the Turkish Cypriots. The first argument is based on the assumption that establishing direct trade with the Turkish Cypriots would lead to the recognition of the Turkish Republic of Northern Cyprus. The second argument claims that the correct legal basis for the direct trade regulation should be Article 1(2) of Protocol 10 and not Article 133 of the EC Treaty (i.e.

ing the restrictive measures in place and the mutual distrust between Greek and Turkish Cypriots, the Green Line Regulation and the Financial Aid Regulation cannot supplant the need for the Direct Trade Regulation.

Furthermore, there is no legal international requirement to impose sanctions on the Turkish Cypriots. The isolationist



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Article 207 of the Lisbon Treaty). The third argument states that trading with the Turkish Cypriots would be violating the duty of loyalty by the EU to one of its own member states, the Republic of Cyprus. As we will try to demonstrate, none of these are tenable and each has its own inherent legal, moral and political weaknesses.

First of all, recognition is predominantly about the perceived international legal status of an entity, whereas a policy of isolation is a coercive measure or sanction against an entity with the intention to induce a change in its behavior. Both are deliberate acts but pursued separately. Recognition of a state is used in a “declaratory” manner to express one state’s acceptance of the coming into being of a new state and its willingness to enter into official relations with that state, but it may also at times be considered as a constitutive element in the creation of a new state. In general, states enjoy wide discretion to recognize or not recognize a new entity that claims to be a state.<sup>21</sup>

Isolation (political, economic, cultural or other), however, is an entirely different concept. It can take effect when specific measures to isolate a particular state, regime or organization are expressed in a legally binding manner.

The decision of non-recognition is, in principle, limited to official contacts between states and the non-recognized entity, such as diplomatic representation, conclusion of international agreements, granting of state immunity in domestic law or acceptance of acts of the authorities of the entity as official acts of a foreign state.<sup>22</sup>

If the international community wishes to go beyond the limits of non-recognition, it decides explicitly with the intention to isolate that entity. The United Nations system allows for the implementation of sanctions based on Chapter VII of its Charter. Article 41 of Chapter VII provides for the adoption of a binding resolution in the Security Council of the United Nations, according to which the member states would be asked to completely or partially cut off their economic and diplomatic relations with a particular country.<sup>23</sup>

However, a call for non-recognition of the Turkish Republic of Northern Cyprus on the basis of Resolution 541 (1983)<sup>24</sup> does not imply isolation of the Turkish Cypriot community. Economic, cultural, or scientific exchanges would still be acceptable, as long as these would not imply recognition of the Turkish Republic of Northern Cyprus.

A similar analysis can be applied to Resolution 550 (1984), as it also cannot be read as a justification for isolation. Although this resolution called upon all states “not to facilitate or in any way assist the aforementioned secessionist entity,”<sup>25</sup> it is highly disputable that the words “facilitate” and “assist” can be read as language that would justify isolationist measures. In any case, in the practice of states, this was not taken to constitute an obligation to refrain from trading with the Turkish Cypriot community.<sup>26</sup>

Generally speaking, direct trade, as well as other forms of cooperation, continued after 1984. Without any further Security Council resolutions addressing the acceptability of maintaining trade or other relations with the Turkish Cypriot community, it is hardly possible to argue that an obligation to isolate this community economically or otherwise has been adopted under international law.

If the international community had wished to pursue a policy of complete isolation, it could have adopted similar measures to those adopted in the case of Southern Rhodesia. In that case, the Security Council condemned in Resolution 216 (1965)<sup>27</sup> the unilateral declaration of independence by the racist minority and called upon all states not to recognize the illegal regime. Furthermore, in Resolu-

tion 217 (1965),<sup>28</sup> it called upon all states to break all economic relations with Southern Rhodesia. It is obvious that in the Southern Rhodesia case, the call for non-recognition was intentionally combined with sanctions.

The EU member countries are neither ready nor willing for an imaginative solution to the problem of Cyprus. They prefer to neglect their promises

In the Turkish Cypriot case, states and international organizations such as the European Union possess great latitude in continuing their cooperation and relations with the Turkish Cypriot community, as long as these contacts do not imply recognition of the Turkish Republic of Northern Cyprus. This is similar to the course of action frequently used with Taiwan. The fact that most states do not recognize Taiwan as a sovereign state, or its government as the legal representative of China, does not preclude the maintenance of economic, trade and other relations.

In the EU's parlance, the word isolation is not often used. Instead of isolation, "restrictive measures" and "sanctions" are used. The Lisbon Treaty and EC Treaty allowed for the interruption or reduction, in part or completely, of economic relations with a third state. Article 301<sup>29</sup> of the EC Treaty entitles the Council to take necessary urgent measures, following a common position or in a joint action adopted according to the provisions of the Treaty on European Union relating to Common Foreign and Security Policy.

Depending on the outcome the EU is seeking, it may follow an array of options, such as diplomatic sanctions, suspension of cooperation with third countries, boycott of sport or cultural events, trade sanctions, financial sanctions, and flight bans and restrictions on admission. All of these can be targeted against specific individuals, groups, governments, and entities.<sup>30</sup>

The economic and financial sanctions by the EU include the ban on import and export of specific goods as well as ban on specific financial services, such as freezing of economic resources, prohibition of investments, capital movements, withdrawal of tariff preferences, technical assistance etc.<sup>31</sup>

These kinds of restrictive measures have to be observed by all individuals and entities doing business within the EU territory (including nationals of third countries) as well as by individuals and entities under the law of one of the EU member states doing business outside the EU boundaries.<sup>32</sup> Other specific restrictive measures in the category of economic sanctions are the so-called smart sanctions, which are applied against individuals and groups with fraudulent behavior.

Since the 1980s, the EU has imposed restrictive measures against third countries without the necessary existence of corollary United Nations resolutions. At the end of 2006, however, there were nine EU sanctions regimes implementing United Nations Security Council Resolutions adopted under Chapter VII of the United Nations Charter, and some 12 autonomous EU regimes.<sup>33</sup> The number of countries against which the EU decided to apply restrictive measures grew to 29 as of October 2009.<sup>34</sup>

Nonetheless, the EU has never used these measures in dealing with the Turkish Republic of Northern Cyprus. One may argue that the ruling of the European Court of Justice in the Anastasiou case of 1994, concerning the refusal to accept Turkish Cypriot Chamber of Commerce certificates, is a relevant reference for an indirect isolationist policy adopted by the EU against the Turkish Cypriots.

Although the ruling did not impose economic sanctions *per se*, it implied an official cancellation of a preferential trade regime<sup>35</sup> between the EU member states and the Turkish Cypriots. Once the ruling entered into force, Turkish Cypriot goods could be imported into the EU, but without Greek Cypriot certificates. Thus, the Turkish Cypriot products without certificates were to be considered goods from a third country. Consequently, import duties were imposed on the Turkish Cypriot commodities and they were no longer competitive in the EU market.<sup>36</sup>

The second argument against lifting isolation is based on the interpretation of the legal framework in which the Direct Trade Regulation is to be enacted. The Greek Cypriots tend to believe and have tried to convince its fellow EU members that the proper legal basis for the Direct Trade Regulation should be Article 1(2) of Protocol 10<sup>37</sup> due to its reference to unanimity. However, the unanimity required in this article is related to the withdrawal of the suspension of the *acquis communautaire* in the areas where the government of the Republic of Cyprus falls short of exercising effective control.

The Commission claimed in its explanatory memorandum for the Direct Trade Regulation proposal that, “[t]he legal basis for this Regulation can only be Article 133 EC,”<sup>38</sup> since there are other territories like Ceuta, Melilla and Gibraltar, which are not in the EU customs area and the EU’s trade with these territories is based on this article. Thus, apart from special rules, trade rules based on Article 133 EC<sup>39</sup> exist.

If Article 133 EC had been used as a basis for the Direct Trade Regulation, a qualified majority would have been required in the Council and it would have



been adopted. However, the government of the Republic of Cyprus, supported by the Council Legal Service, argued the contrary and claimed that the correct legal basis for the Direct Trade Regulation should be Article 1(2) of Protocol 10 requiring unanimity. So far, through this argument, the Greek Cypriots have been able to block the adoption of the Direct Trade Regulation by the Council.

The third argument is based on the notion of EU membership loyalty. The Government of the Republic of Cyprus argues that fostering trade with the Turkish Republic of Northern Cyprus would violate the duty of loyalty of the Community vis-à-vis Cyprus as a Member State.<sup>40</sup> Furthermore, it argues that the EU cannot unilaterally establish trade relations with the areas not under the effective control of the government of the Republic of Cyprus because it would thereby disregard the 1974 decision of the Government of the Republic of Cyprus to close all ports outside its control.

However, a state normally does not interfere with a ship's decision on which ports it will fly its flag. It can only give permission to call at a certain port. If a state wants to prohibit access of ships to a certain port, it has to do so in a decision based on domestic legislation. Such actions are political decisions taken solely under domestic law. Hence, a call by a foreign ship at a port in Northern Cyprus cannot be regarded as a violation of any international right claimed by the Republic of Cyprus.

This conclusion is also shared by the European Commission. Its opinion on the legality of opening of a regular ferry service between the port of Famagusta and the Syrian port of Latakia reads as follows: "...it is the Commission's understanding that there is no prohibition under general international law to enter and leave seaports in the northern part of Cyprus."<sup>41</sup>

It should be underlined, once again, that the Greek Cypriots trade routinely with the Turkish Cypriots. Moreover, as the international community has never officially supported the isolationist policies of the Republic of Cyprus and Greece towards the Turkish Cypriots and has never called for an economic embargo against the Turkish Cypriot community, asking for loyalty from the EU, in this instance, is an unusual demand.

The arguments against lifting the isolation of the Turkish Cypriots have no legal validity and they are merely political claims devised for the perpetuation of the status quo and subjugation of the Turkish Cypriots

The only reason for not adopting the proposed Direct Trade Regulation could be based on international law and official EU sanctions. As we demonstrated above, the three arguments against lifting the isolation of the Turkish Cypriots have no legal validity and they are merely political claims devised for the perpetuation of the status quo and subjugation of the Turkish Cypriots.

In this light, it would be prudent to underline the objective in the recital of the Protocol 10 that reflects the primary goal of the accession of Cyprus to the EU, i.e. “the accession of Cyprus to the European Union shall benefit all Cypriot citizens and promote civil peace and reconciliation.”<sup>42</sup> The desire to have all Cypriots benefit from Cyprus’s accession was not only stated in the preamble of Protocol 10, but also in Article 3(1) of the Protocol that reads, “nothing in this Protocol shall preclude measures with a view to promoting the economic development of the areas referred to in Article 1 [meaning Northern Cyprus].”<sup>43</sup>

The results of the referenda on the Annan Plan of April 24, 2004 showed that the Turkish Cypriots expressed their clear desire for a future in the EU and that the suspension of the *acquis* was not the fault of the Turkish Cypriots.<sup>44</sup> Nevertheless, the negative impact has been felt solely by the Turkish Cypriot community.

## Conclusion

The Green Line Regulation is not and has never been intended to be an effective instrument for ending Northern Cyprus’s economic isolation. It was a partial remedy for this deficiency. Instead, the Commission had envisaged two additional regulations: the Financial Aid Regulation and the Direct Trade Regulation. These regulations were proposed as “twin” instruments, meaning that they were to be adopted as one package, simultaneously. The later has still not been adopted because of fierce opposition from the government of the Republic of Cyprus.

This paper reiterates the point that there is no legal merit for not lifting isolation imposed on the Turkish Cypriots. It also argues that endorsing the Direct Trade Regulation will serve as a confidence building tool between the two communities and between Turkey and the Greek Cypriots. It should lead to reciprocation by Turkey as promised on several occasions. Such a move would certainly ease the political burden on the current negotiations on the island.

The political linkages established on January 24, 2006 by Turkey between ending the isolation of the Turkish Cypriots and the fulfillment of customs union responsibilities towards the Republic of Cyprus, represented by the Greek Cypriots,

have been further fine-tuned by the State Minister Responsible for EU Affairs, Egemen Bağış. In October 2009, at the annual Bosphorus Conference, he stated twice that the endorsement of the Direct Trade Regulation would be sufficient for Turkey to reciprocate. This call too has been ignored by the EU. Instead, the EU's General Affairs Council on December 7, 2009 demanded that Turkey "fulfill its obligation of full non-discriminatory implementation of the Additional Protocol to the Association Agreement."

The Council claimed that in the absence of progress on this issue, the Council would maintain its measures from 2006, which will impact the overall progress in the Turkish-EU negotiations. In other words, the eight chapters suspended would remain in force and nothing would be done to lessen the isolation of Turkish Cypriots. Apparently, the EU member countries are neither ready nor willing for an imaginative solution to the problem of Cyprus. They prefer to neglect their promises made on April 26, 2004, which clearly expressed the necessity and desire to end the isolation of the Turkish Cypriot community.

## Endnotes

1. This paper is based on the findings of a TESEV sponsored project. For the full elaboration of the problem please see Marcel Brus, Mensur Akgün, Steven Blockmans, Sylvia Tiryaki, Theo van den Hoogen, & Wybe Douma, *A Promise to Keep: Time to End the International Isolation of the Turkish Cypriots* (Istanbul: TESEV Publications, 2008). The authors would like to express their gratitude to Lenka Peřková from GPoT for her contribution.

2. See Council of the European Union: General Affairs and External Relations, 2770th Council Meeting in Brussels, 16289/06 (Presse 352), (December 11, 2006), p. 8-9.

3. Council of the European Union: Council Conclusions on Enlargement/Stabilisation and Association Process, *2984th General Affairs Council Meeting Brussels*, (December 7-8, 2009), para. 13.

4. For a more detailed analysis, see Kudret Özersay, "Separate Simultaneous Referenda in Cyprus: Was it a "Fact" or an "Illusion"?" *Turkish Studies*, Vol. 6, No. 3 (September, 2005).

5. Regulations by the Council of the European Union: Proposal for a Council Regulation on Special Conditions for Trade with Those Areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not Exercise Effective Control (COM(2004) 466, final 2004/0148 (ACC)), p. 2.

6. Reports of the Secretary General: Report of the Secretary General on his Mission of Good Offices in Cyprus (S/2004/437), para. 93.

7. See Sylvia Tiryaki, "How Mr. Anderson Gets Cyprus Wrong," *Turkish Daily News*, May 12, 2008.

8. Proposal for a Council Regulation establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community, COM(2004) 465, July 7, 2004.

9. Proposal for a Council Regulation on special conditions for trade with those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control, COM(2004) 466, (July 7, 2004).

10. Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol No 10 of the Act of Accession, OJ 2004 L 161/128, with corrigendum at OJ 2004 L 206/51.

11. For the latest statistics, see Communication from the Commission, Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application, COM(2009)478, (SEC(2009)1182), (September 14, 2009).

12. By December 18, 2009, the European Commission has contracted approximately 99 percent of the 259 million euro under the Aid Program for the Turkish Cypriots. The selected projects will run until 2012. For further information, see, “AB, KKTC’ye verdiği sözü tuttu, 259 milyon euroluk hibe için anlaşmalar tamamlandı,” *EurActiv*, December 22, 2009, retrieved December 22 from: <http://www.euractiv.com.tr/ab-fonlari/article/ab-kktcye-verdigi-sozu-tuttu-259-milyon-euroluk-anlamalar-tamamland-008210>.

13. See Frank Hoffmeister, *Legal Aspects of the Cyprus Problem* (Leiden: Martinus Nijhoff Publishers, 2006), p. 201.

14. According to the Annual report on the implementation of the Green Line (see reference No. 10, p. 25), “The overall scale of Green Line trade still remains limited, in part due to the restricted scope of the Regulation itself... the total trade value of goods which crossed the Line... was about €6,111,030 [reporting period: May 1, 2008 – April 30, 2009].

15. Case C-432/92, Anastasiou (Pissouri) I [1994] ECR I-3087. The case addressed the question of Turkish Cypriot certificates for agricultural goods exported to the EU market. Until the judgment, the United Kingdom accepted the origin and phytosanitary certificates issued by the Turkish Republic of Northern Cyprus. However, these practices by the United Kingdom were questioned by the Greek Cypriot producers. The European Court of Justice ruled in 1994 that only certificates issued by the Republic of Cyprus should be regarded valid for products originating in either part of Cyprus.

16. Figures are retrieved from Marcel Brus, Mensur Akgün, Steven Blockmans, Sylvia Tiryaki, Theo van den Hoogen, & Wybe Douma, *A Promise to Keep: Time to End the International Isolation of the Turkish Cypriots*, (Istanbul:TESEV Publications,2008) p. 29.

17. Communication from the Commission, Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application, COM(2009)478, (SEC(2009)1182), (September 14, 2009), p. 6.

18. Reports of the Secretary General: The Report of the Secretary-General to the Security Council, S/5950, (September 10, 1964) quoted in Brus, Akgün, Blockmans, Tiryaki, Hoogen, Douma, *A Promise to Keep...*, p. 25.

19. Reports of the Secretary General: The Report of the Secretary-General to the Security Council, (June 10, 1966) quoted in Brus, Akgün, Blockmans, Tiryaki, Hoogen, Douma, *A Promise to Keep...*, p. 25.

20. See Turkish Cypriot Human Rights Foundation, *The Turkish Cypriots: The Excluded EU Citizens* (North Cyprus, 2004), p. 5-6.

21. See Brus, Akgün, Blockmans, Tiryaki, Hoogen, Douma, *A Promise to Keep...*, p. 17-24.

22. Brus, Akgün, Blockmans, Tiryaki, Hoogen, Douma, *A Promise to Keep...*, p. 17-24

23. See Charter of the United Nations (1945), Chapter VII, Article 41: “The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”

24. United Nations Security Council Resolutions: Resolution 541 (1983), S/RES/541(1983), (November 18, 1983), para. 6-7, state *inter alia*: “(6) The Security Council calls upon all States to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus. (7) Calls upon all States not to recognize any Cypriot State other than the Republic of Cyprus.”

25. See the full para. 3 of the United Nations Security Council Resolution: Resolution 550 (1984), (May 11, 1984): “The Security Council Reiterates the call upon all States not to recognise the purported state of the “Turkish Republic of Northern Cyprus” set up by secessionist acts and calls upon them not to facilitate or in any way assist the aforesaid secessionist entity.”

26. Brus, Akgün, Blockmans, Tiryaki, Hoogen, Douma, *A Promise to Keep...*, p. 21.

27. United Nations Security Council Resolutions: Resolution 216 (1965), S/RES/216 (1965), (November 12, 1965).

28. United Nations Security Council Resolutions: Resolution 217 (1965), S/RES/217 (1965), (November 20, 1965).

29. The relevant provisions of the EC Treaty are amended by article 215 of the Lisbon Treaty, which reads as follows: “(1) Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof. (2.) Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities. (3.) The acts referred to in this Article shall include necessary provisions on legal safeguards.” Treaty of Lisbon, Official Journal of the European Union, 2008/C, Article 215 - C115/144, May 9, 2008.

30. See the EU Consolidated Electronic List Concerning Persons and Entities Subject to EU Financial Sanctions: [http://ec.europa.eu/external\\_relations/cfsp/sanctions/list/version4/global/help\\_online/help.html](http://ec.europa.eu/external_relations/cfsp/sanctions/list/version4/global/help_online/help.html).

31. See European Commission's Document on External Relations dated September 15, 2009, available online at: [http://ec.europa.eu/external\\_relations/cfsp/sanctions/docs/index\\_en.pdf](http://ec.europa.eu/external_relations/cfsp/sanctions/docs/index_en.pdf).

32. European Commission's Document on External Relations dated September 15, 2009, p. 4, para. 2.2.

33. See the European Commission's official website on sanctions and restrictive measure: [http://ec.europa.eu/external\\_relations/cfsp/sanctions/index.htm](http://ec.europa.eu/external_relations/cfsp/sanctions/index.htm).

34. Figures retrieved from the official website of the European Commission – External Relations: Restrictive Measures (Sanctions) in Force on December 20, 2009:

[http://ec.europa.eu/external\\_relations/cfsp/sanctions/docs/measures\\_en.pdf](http://ec.europa.eu/external_relations/cfsp/sanctions/docs/measures_en.pdf).

35. Treaty of Accession of 2003, which was signed by the Greek Cypriots on behalf of the whole island, states that the whole population of the island should benefit from the accession of Cyprus to the EU. The same was valid for Article 5 of the earlier EC-Cyprus Association Agreement, which provided for a non-discriminatory trade between the EC and ‘any national or company in Cyprus.’

36. See S. Talmon, “The Cyprus Question before the European Court of Justice”, *European Journal of International Law*, 2001, Vol. 12, pp 727-750; C. Greenwood and V. Lowe, Unrecognized States and the European Court, *The Cambridge Law Journal*, vol. 74, 1995, pp. 4-6.

37. Protocol No 10 on Cyprus, Official Journal of the European Union, September 23, 2009, p. 955, Article 1.1.-1.2.: “(1) The application of the *acquis* shall be suspended in those areas of the

Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control. (2) The Council, acting unanimously on the basis of a proposal from the Commission, shall decide on the withdrawal of the suspension referred to in paragraph 1.”

38. Explanatory Memorandum of the Council Regulation on Special Conditions for Trade with Those Areas of the Republic of Cyprus in Which the Government of the Republic of Cyprus Does Not Exercise Effective Control, (COM(2004) 466 final 2004/0148 (ACC)), p. 3.

39. The relevant provisions of the EC Treaty are amended by article 207 of the Lisbon Treaty. Paragraphs 3 and 4 of article 207 of the Lisbon Treaty read as follows: “(3) Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article 218 shall apply, subject to the special provisions of this Article. The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules. The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations. (4) For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority. For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules. The Council shall also act unanimously for the negotiation and conclusion of agreements: (a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union’s cultural and linguistic diversity; (b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

40. See article 4(3) of the Lisbon Treaty (ex Article 10 TEC): “Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties. The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. The Member States shall facilitate the achievement of the Union’s tasks and refrain from any measure which could jeopardise the attainment of the Union’s objectives.”

41. “Answer Given by Mr. Rehn on Behalf of the Commission”, *AB Haber*, E-4901/07EN, (January 25, 2008), retrieved June 25, 2009 from: <http://www.abhaber.com/english/haber.php?id=3757>.

42. See Protocol No 10 on Cyprus, p. 955, para. 7.

43. Protocol No 10 on Cyprus, p. 955, Article 3.

44. For a detailed analysis of the atmosphere following the two simultaneous referenda in Cyprus in 2004 see Mensur Akgün, Ayla Gürel, Mete Hatay, & Sylvia Tiryaki, *Quo vadis Cyprus?* (Istanbul: TESEV Working Paper, 2005).