

## Addendum

With the people of the United Kingdom beginning a debate over whether to endorse the draft EU constitutional treaty, one hopes that the document forming the subject matter of the referendum will be in the public domain well before voting eventually takes place. One also hopes that the draft EU constitutional treaty will be subjected to line-by-line scrutiny by Parliament, constitutional lawyers and other experts as part of a wide-ranging consultation process in the public interest. However, before the people of Cyprus participated in the referendum on the Annan Plan on Saturday 24 April 2004, no such process took place. The referendum question asked voters of Cyprus the following question:

“Do you approve the Foundation Agreement with all its Annexes, as well as the constitution of the Greek Cypriot/Turkish Cypriot State and the provisions as to the laws to be in force, to bring into being a new state of affairs in which Cyprus joins the European Union united?”

Nevertheless, not only were the voters deprived of a proper consultation process, they were effectively denied access to virtually all of the 9000 pages they were invited to approve. The official UN website reveals that:

“The [Annan] plan was first presented on 11 November 2002. Revisions were subsequently issued on 10 December 2002, 26 February 2003 and 29 March 2004. The Secretary-General presented the final version of the plan to the parties on 31 March 2004, in Bürgenstock, Switzerland. Corrigenda and clarifications were issued on 18 April and incorporated in the 31 March text, the corrected version of which was authenticated by the Secretary-General’s Special Adviser on Cyprus and submitted to the parties on 23 April 2004.”

Accordingly, the full and final version of the Annan Plan did not see the light of day until the day before the referendum. Indeed, it was not placed on the official website of the UN until 23:59 GMT on 23 April 2004. (See [www.cyprus-unplan.org/Annan\\_Plan\\_Text1.html](http://www.cyprus-unplan.org/Annan_Plan_Text1.html)). These facts went unreported by the international media yet they help explain why 76 per cent of Greek Cypriot voters rejected the Annan Plan. There were, of course, other reasons why so many Greek Cypriots voted “No”. As far as they could ascertain from the provisions of the Annan Plan in the public domain, the Plan was defective in a number of material respects.

After all, if implemented, it would have had the inescapable and irreversible effect of *inter alia*:

(a) depriving Cypriot citizens of many rights under the European Convention on Human Rights and, furthermore, under EU law;

- (b) denying the right of return to tens of thousands of displaced persons ethnically-cleansed from the northern area of Cyprus during the Turkish invasion of 1974;
- (c) freezing all applications of Cypriot citizens to the European Court of Human Rights in respect of the actions of Turkey in Cyprus since 1974;
- (d) precluding Cypriot citizens from bringing certain cases before the European Court of Human Rights;
- (e) legalising the presence in the northern area of Cyprus of tens of thousands of foreign settlers and colonists planted there by Turkey;
- (f) negating the principles of democracy by giving 18% of the population 50% of the seats in the Senate together with the power to undermine decision-making within the executive;
- (g) permitting foreign interference in the domestic affairs of Cyprus via the appointment of three non-Cypriot judges to the Supreme Court who would have held the balance of power in the event of deadlock between the three Greek Cypriot and three Turkish Cypriot judges;
- (h) authorising a substantial foreign military presence on the island which could only be reduced substantially (but not totally) in the event of the accession of Turkey to the EU;
- (i) enhancing the rights of Turkey in accordance with the terms of an Additional Protocol to the Treaty of Guarantee 1960 under which the Turkish government asserts a disputed right of military intervention in Cyprus; and
- (j) curtailing the sovereignty of Cyprus in other ways by placing an obligation on Cyprus to endorse the application of Turkey to the EU irrespective of whether it improves its dreadful record on human rights.

Isaiah Berlin once observed that “to be free to choose, and not to be chosen for, is an inalienable ingredient in what makes human beings human.” Three quarters of Greek Cypriots chose to vote “No” contrary to the wishes of a phalanx of foreign politicians and notwithstanding the dire warnings reportedly issued by unnamed diplomatic sources. They voted “No” because they did not want to endorse the consequences of the Turkish invasion of 1974. They could not bring themselves to convey democratic legitimacy upon so many provisions which were incompatible with the fundamental principles of democracy, human rights and international law. Above all, they had no intention of disqualifying future generations from asserting rights which flow indubitably from membership of the EU.

**Klearchos A. Kyriakides**

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