

## **Displacement in Cyprus and the Property issue**

During the 1963–64 period, it is estimated that around 25,000 Turkish Cypriots (one-quarter of the Turkish Cypriot population at that time), and 700 Greek Cypriots (including 500 Armenians) were displaced. Most of these people were still displaced when the events of 1974 struck, leading to the present *de facto* division of Cyprus into a Turkish Cypriot-controlled north and a Greek Cypriot-controlled south.

Division had long-term drastic consequences. Large-scale displacement upset the lives of many local communities and led to restrictions as regards Cypriot individuals' freedom to travel and settle throughout the island and exercise property rights. Nearly all of the 162,000 GC inhabitants of the area to the north of the divide fled or moved to the south. Similarly almost all of the estimated 48,000 TCs then living in the south moved to take refuge in the north. These population transfers rendered the two parts of the island in effect ethnically homogenised. Until April 2003, travel between north and south was virtually impossible for Cypriots.

In 1974 with such a high proportion of the population having been displaced and thus having lost their homes and properties, a huge humanitarian problem emerged. The situation in the south was obviously more dire, given the overcrowding caused by the sudden influx of so many displaced persons and scarcity of resources available for accommodating them. For the TCs, on the other hand, the move was from confinement in enclaves to – what they regarded as – freedom in the northern one-third of the island. The main challenge in the north was to organise efficient and productive utilisation of abundant property and resources left behind by the GCs – a task hampered by the insufficient size of the TC population.

In the elapsed period of over three decades the displaced persons in both parts of the island have been accommodated and largely adapted to their new environments. However, claims related to their lost homes and properties have been unsettled until now.

As regards proportions of land left behind by GCs and TCs in the two parts of the island, there is no set of figures accepted by both sides. The discrepancy between the two sides' figures is quite considerable. However, what seems undisputed is that more than half of the total land in the north is GC property, and that TC property left in the south is as much as about a third of what the GCs left in the north.

The property issue is probably the most complicated item on the agenda of the current negotiations for a Cyprus settlement. A major difficulty here stems from disagreements between the two sides which can be traced to the fundamental political conflict between them and, in particular, to their very different perceptions of the causes of the 1974 division.

From about 1977 onwards, the ostensibly mutually accepted objective of the negotiations has been to create a federation that will engender the island's *reunification on a bizonal basis*. However, the negotiating parties have yet to agree on what 'reunification' and 'bizonality' should actually entail. Moreover, while reunification is the GC side's primary concern, what really matters to the TC side is bizonality. 'Reunification on a bizonal basis' is clearly a compromise formula attempting to reconcile the two sides' incompatible views of the present division.

In the TC view, division came as the inevitable consequence of the progressive segregation of the two communities since at least 1963 caused, very largely, by GC and Greek aggression. In the secure zone created in the north after 1974 the TCs can live as masters of their own house and away from threats of GC domination. This situation is the basis – albeit after some territorial adjustments – of what TCs understand by a bizonal solution. Hence they insist that under a settlement the exercise of property rights by displaced persons should be restricted in order not to upset too much the present settlement patterns of the two communities.

In contrast, the GCs generally think of the Cyprus problem as having started in 1974 as a result of what they see as Turkey's unprincipled invasion of a substantial part of their country. They see the subsequent *faits accomplis* of this act as threats to the survival of Cypriot Hellenism in its ancestral lands and the unity of its historical space. Thus the TC conception of bizonality is unacceptable to the GCs. For them this is perpetuation of division, a situation which must be resisted and reversed as much as possible. In line with this position, the GC side emphasizes the application throughout the island of freedom of movement and settlement and property rights as a crucial element of a solution. Thus on the property issue the GC side demands full respect for basic human rights, including displaced persons' right to repossess and return to their properties irrespectively of any bizonal arrangements.

Apart from this incompatibility of political goals, social and economic considerations as well as legal and normative prerequisites also pose serious challenges to a property settlement.

After the division, the TCs generally presumed that the two communities were now separated permanently and that each community should organise 'its own internal structure in its own area'. In the north, this implied construction of a new social and economic environment; a process in which, given the landownership figures mentioned above, the TCs had no alternative but to rely extensively on property left by GCs. Accordingly, agreement was sought with the GC side to deal with reciprocal property claims through a formula of global exchange of TC properties in the south and GC properties in the north and collective compensation. The idea, although always rejected by the GCs, has until recently formed the basis of the TC policies concerning properties of displaced GCs. Since 1974, a series of measures and laws have been put in place that allowed the allocation of GC properties – initially only for use but later also with ownership rights – to displaced TCs and various other categories of citizens and public and private bodies in the north. In this way, these properties gradually became part of the social and economic fabric of the north. Within the north's legal system, most GC property is now under new ownership (private or public) and can be inherited, mortgaged, traded, including being sold to foreigners, and developed for private or public use.

Contrary to all this, the GC view has been that the present division of the island is temporary. It will end once an agreement is reached dismantling the 'unlawful' TC state. Any settlement agreement must also ensure that all displaced persons from either community have the right to have their properties reinstated. Yet, notwithstanding the position that all GC and TC property belong to the original, i.e., pre-1974, owners, the GC government also adopted legal measures allowing allocation or lease of TC properties in the south to GC displaced persons, or to the government, local authorities and public benefit organisations. Transfer of title to another person is explicitly ruled out but compulsory acquisition or sale of TC property is exceptionally allowed if deemed beneficial for the owner or necessary in the public interest. However, the legislation in force prevents TC owners from claiming their properties or any relevant compensation or other payment otherwise due to them until after a comprehensive settlement. As a result of these practices, since 1974 much TC property has been modified through 'development and productive use' – both for private and public purposes, the latter including building refugee housing estates and various forms of infrastructure. Needless to say, in the future full restitution of such property to pre-1974 owners is quite unlikely.

Meanwhile, since the 1990s hundreds of property-related cases have been piling before the ECtHR. Most of these are GC applications against Turkey concerning property in the north, except for a small number of more recent applications against the RoC by TC owners of property in the south. I can't go into any detail about the implications for a property settlement of the numerous Court judgements issued to this day. And, needless to say, the ECtHR rulings have not produced an answer as to how the Cypriot property dispute may ultimately be resolved. However, they did lay down some minimum guidelines that any negotiated property settlement compatible with the European Convention on Human Rights would be expected to satisfy.

The property issue in divided Cyprus is multifaceted, with vital human, legal and normative dimensions. But its real complexity is due to the fact that it is inextricable from the two sides' perceptions of what is politically at stake in Cyprus. In a settlement involving transition from the present long-term de facto separation to 'bizonal reunification', dealing with this issue obviously requires a pragmatic compromise approach. The question is: how can the two Cypriot sides be persuaded to accept such a solution? The answer, as we know, is not easy.

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