

Constitutional Provisions

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The Nature of Fundamental Rights and their Protection

Article 10

- (1) Every person has, by virtue of his existence as an individual, personal fundamental rights and liberties which cannot be alienated, transferred or renounced.
- (2) The State shall remove all political, economic and social obstacles which restrict the fundamental rights and liberties of the individual in a manner incompatible with the individual's security, social justice and the principles of the State being subject to the rule of law; it shall prepare the necessary conditions for the development of the individual's material and moral existence.
- (3) The legislative, executive and judicial organs of the State, within the spheres of their authority, shall be responsible for ensuring that the provisions of this Part are implemented in full.

The Essence and Restriction of Fundamental Rights and Liberties

Article 11

Fundamental rights and liberties can only be restricted by law, without affecting their essence, for reasons such as public interest, public order, public morals, social justice, national security, public health and for ensuring the security of life and property of persons.

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The Status of Aliens

Article 13

The rights and liberties referred to in this Constitution may be restricted by law in respect of aliens, in accordance with international law.

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Rights Relating to Judicial Trials

Article 17

- (1) No person shall be denied access to the court assigned to him by or under this Constitution. The establishment of judicial committees or special courts under any name whatsoever is prohibited.
- (2) Every person shall, in the determination of his civil rights and obligations or of any criminal charge against him, be entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law. Judgment shall be reasoned and pronounced in public session.
- (3) The press and the public may be excluded from all or any part of the trial upon a decision of the court in cases where it is in the interest of national security or constitutional order or public order or public safety or public morals or where the interest of juveniles or the protection of the private life of the parties so require or, in special circumstances where, in the opinion of the court, publicity would prejudice the interests of justice.
- (4) Every person has the right
 - (a) to be informed of the reasons why he is required to appear before the court ;
 - (b) to present his case before the court and to have sufficient time necessary for its preparation;
 - (c) to adduce or cause to be adduced his evidence and to demand that witnesses are directly examined according to law
 - (d) to have the services of a lawyer chosen either by him or by his relatives and where the interests of justice so require to have free legal assistance as provided by law ;
 - (e) to have free assistance of an interpreter if he cannot understand or speak the language used in court.

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General Provisions Relating to Property Rights

Article 36

- (1) Every citizen has the right to ownership and inheritance. These rights may only be restricted by law in the interest of the public.
- (2) Restrictions or limitations which are absolutely necessary in the interests of public safety or public health or public morals or town and country planning or the development and utilization of any property for public benefit or for the protection of the rights of others may be imposed by law on the exercise of the right to ownership.
- (3) Just compensation shall be promptly paid for any such restrictions or limitations which materially decrease the economic value of property; in case of disagreement such compensation shall be determined by a civil law court.
- (4) The provisions of paragraphs (2) and (3) above shall not affect the provisions imposed by law for the purpose of recovering any tax or penalty, executing any judgment, enforcing any contractual obligation or protecting life or property from danger.
- (5) The right of the State to the immovable properties mentioned in Article 159 [see below] is reserved.

Protection of Land

Article 37

The State shall take the necessary measures for the purpose of achieving the efficient utilization of land and for providing farmers who have no land or who have insufficient land, with enough land. The law may specify the extent of land to be utilized for these purposes having regard to the requirements of different agricultural regions and types of farming.

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Acquisition and Requisition

Article 41

- (1) The State, municipal corporations and such public corporate bodies or institutions of public utility as are empowered by law to make compulsory acquisitions, shall be entitled to acquire compulsorily any movable or immovable property or any right over or interest in any such property:
 - (a) for a purpose of public utility specifically provided by a general law for compulsory acquisition; and
 - (b) when such purpose is contained in a decision of the acquiring authority and is made under the provisions of such law stating clearly the reasons for such acquisition ; and
 - (c) upon payment in cash, immediately or by instalments to be prescribed by law and spread over a period not exceeding five years, of a just and equitable compensation which shall be determined, in case of disagreement, by a civil law court.
- (2) The manner and the procedure whereby the value of the property compulsorily acquired shall be assessed shall be regulated by law.
- (3) Any immovable property or any right over, or interest in, such property which has been compulsorily acquired, shall be used only for the purpose for which it has been acquired. If within three years of the acquisition such purpose has not been attained, the acquiring authority shall, immediately after the expiration of the said period of three years, offer the property at the price it was acquired to the person from whom it was so acquired. The person receiving this offer shall signify his acceptance or rejection of the offer within three months of the receipt thereof; if he signifies acceptance, and returns the price at which it was acquired within a period of three months from such acceptance, the property shall be returned to him immediately.
- (4) The provisions of the above paragraph shall not affect any provisions of law for the purpose of recovering any taxes or penalty, executing any judgment, enforcing any contractual obligation or protecting life or property against danger.
- (5) The State may requisition any movable or immovable property:
 - (a) for a purpose of public utility specifically provided by a general law for requisition; and

- (b) when such purpose is established by a decision of the requisitioning authority and made under the provisions of such law stating clearly the reasons for such requisition; and
 - (c) for a period not exceeding three years ; and
 - (d) upon payment in cash, immediately or by instalments to be prescribed by law and spread over a period not exceeding five years, of a just and equitable compensation which shall be determined, in case of disagreement, by a court exercising civil law jurisdiction.
- (6) Any interested person shall have the right of recourse to the court in respect of any of the provisions of this Article and such recourse shall have the effect of a stay of proceedings of the compulsory acquisition.
- Any decision of the court under this paragraph shall be subject to appeal.

Acquisitions, Requisitions and Restrictions connected with Vakf Properties

Article 42

- (1) Matters relating to the acquisition and requisition of Vakf properties shall be regulated by law in accordance with the Basic Principles of Evkaf (Ahkâmul Evkaf). Provisions relating to the restrictions and limitations which shall be imposed on Vakf properties for purposes of town and country planning, shall also be specified in such law.
- (2) In cases where any act of limitation or restriction is involved, the court may order stay of proceedings in respect thereof.

Nationalization

Article 43

Private enterprises which possess the characteristics of a public service and the movable and immovable properties belonging to aliens may, where necessitated in the public interest be nationalized provided that their actual value is paid in the manner indicated by law. Where the law provides that payment be made by instalments, such payment shall be effected by equal instalments spread over a period not exceeding ten years. Any amount not paid in advance shall be subject to the highest rate of interest prescribed for State loans.

Right to a Dwelling House

Article 44

The State shall regulate by law the measures necessary for meeting the housing requirements of families who do not own a dwelling house or who do not have a home conforming to sanitary conditions suitable for human habitation.

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The Ratification of International Agreements

Article 90

- (1) The ratification of agreements to be entered into on behalf of the Turkish Republic of Northern Cyprus with foreign States or international organisations shall be subject to the approval of the Assembly of the Republic by enactment of a law.
- (2) Treaties regulating economic, commercial and technical relations, the duration of which do not exceed one year, may be put into effect through publication, provided that such treaties do not impose any burden on the State finances and do not affect the status of persons and the right of ownership of citizens in foreign countries. In such cases, the treaties shall be brought to the knowledge of the Assembly of the Republic within one month of their publication.
- (3) It shall not be necessary for treaties relating to enforcement of an international treaty and for economic, commercial, technical or administrative treaties made pursuant to powers given by law, to be ratified by the Assembly of the Republic; but such economic and commercial treaties so made and treaties affecting rights of the individual shall not come into force before publication.
- (4) The provisions of paragraph (1) of this Article shall be applied in the case of all treaties which result in a change in the laws of the Turkish Republic of Northern Cyprus.
- (5) International treaties which have been duly put into operation shall have the force of law. Recourse cannot be made to the Supreme Court sitting as the Constitutional Court in respect of such treaties on the grounds of unconstitutionality.

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Right of the State to Ownership

Article 159

- (1) (a) All immovable properties registered in the name of the Government of Cyprus before the 16th of August 1960 and all immovable properties transferred to the Government of Cyprus after the 16th of August 1960; roads, waters, water resources, ports, harbours and shores, docks and piers, lakes, riverbeds, and lakebeds, historical cities, buildings, ruins and castles and the sites thereof, natural resources and underground resources, forests, defence buildings and installations, green areas and parks belonging to the public; village roads and rural pathways open to the public; and buildings used for public services;
- (b) All immovable properties, buildings and installations which were found abandoned on 13th February, 1975 when the Turkish Federated State of Cyprus was proclaimed or

which were considered by law as abandoned or not being owned after the abovementioned date, or which should have been in the possession or control of the public even though their ownership had not yet been determined; and

- (c) All immovable properties found within the area of military installations, docks, camps and other training grounds specified in the 1960 Treaty of Establishment and its Annexes,

situated within the boundaries of the Turkish Republic of Northern Cyprus on 15th November 1983, shall be the property of the Turkish Republic of Northern Cyprus notwithstanding the fact that they are not so registered in the records of the Land Registry Office ; and the Land Registry Office records shall be amended accordingly.

- (2) Notwithstanding any other provisions of this Constitution, the ownership of the immovable properties specified in sub-paragraphs (a) and (c) of paragraph (1) above shall not be transferred to physical and legal persons.

Provided that the making of the necessary adjustment by the State to public roads and to public village roads and field pathways is exempted from the above provision.

Easements and other similar rights for specified periods and long term leases over such immovable properties may be established and registered in the manner and under the conditions prescribed by law for purposes of public interest.

The establishment and registration of such rights, the period of which exceeds fifty years, shall be subject to the approval of the Assembly of the Republic.

- (3) Out of the properties specified in subparagraph (b) of paragraph (1) above, the transfer of the right of ownership to physical and legal persons of immovable properties other than forests, green areas, monuments and parking places, waters, underground waters, natural resources and buildings, installations and sites required for defence, public administration and military purposes and those required for purposes of town and country planning and soil conservation, shall be regulated by law.
- (4) In the event of any person coming forward and claiming legal rights in connection with the immovable properties included in subparagraphs (b) and (c) of paragraph (1) above, the necessary procedure and conditions to be complied with by such persons for proving their rights and the basis on which compensation shall be paid to them, shall be regulated by law.
- (5) Places of religious worship and the immovable properties in which they are situated shall not be transferred to physical and legal persons. The State shall take the necessary measures for the safeguarding, maintenance and preservation of such places and properties.

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TRANSITIONAL PROVISIONS

Safeguarding of the Rights

Transitional Article 1

- (1) The necessary social, economic, financial and other measures, including compensation, for the protection of the citizens who have emigrated or sustained, directly or indirectly, any loss

because of the national resistance of the Turkish Community or during such resistance, shall be regulated by law.

- (2) The right of the citizens of the Turkish Republic of Northern Cyprus to claim immovable property of equal value, from the State, in return for their immovable properties left in Cyprus outside the boundaries of the State, shall be reserved; such right shall be regulated by law and the transfer of ownership of the immovable properties included in paragraph (2) of Article 159 of this Constitution to the persons entitled shall be effected with priority. Property shall also be granted to the martyrs and to disabled veterans and to those other persons entitled to the grant of property for other reasons specified in the law.
- (3) The State shall take the necessary social, economic, financial and other measures for the rehabilitation of the refugees under equal status and for rendering them useful to themselves, to their families and to the community; the State shall give the necessary assistance until such rehabilitation is realized.
- (4) The rights of the Turkish citizens of the Turkish Republic of Northern Cyprus to claim compensation for loss of income or damage sustained by them as a result of being obliged to abandon their movable and immovable properties, shall be reserved. Such rights shall be regulated by law.
- (5) Subject to compliance with the requirement of giving priority to the grant of immovable property of equal value, the transactions concerning the transfer of property rights relating to immovable properties to entitled persons shall be completed within a period of five years, at the latest, as from the date of the coming into operation of this Constitution.

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Forest Lands

Transitional Article 3

- (1) Notwithstanding the provisions of paragraph (2) of Article 159 of this Constitution, the property rights on State lands known as "forest land" situated in areas of Minor State Forests and used as agricultural land since 1st January, 1955, may be transferred to the actual possessors of such lands.
For the purposes of this paragraph, "actual possessor" means the person who turned the immovable property into an agricultural land and who has continued to utilize it as from 1st January, 1955 and includes the legal heirs of such persons and the person who has taken over from such heirs. The application of this paragraph shall be regulated by law.
- (2) The future of the State lands included in the category specified in paragraph (1) which were until 20th July 1974, in the actual possession of persons who were not members of the Turkish Cypriot Community, shall be regulated by law.