

## UNIVERSITIES IN NORTH CYPRUS AND THE RIGHT TO EDUCATION

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### ÖZET

Günümüzde eğitimin temel bir insan hakkı olduğu şüphesizdir. İnsan haklarına ilişkin uluslararası hukukun lafzı ve ruhu devletlerin ve uluslararası kurumların eğitim hakkının önündeki tüm engelleri kaldırmasını şart koşmaktadır.

Kıbrıs 2004 yılında AB üyesi oldu. Kıbrıslı Türkler 64.9 % oranında Kıbrısın birleşmesi lehinde oy kullanmalarına rağmen, başta eğitim hakkı olmak üzere, temel haklarının ve gelişmelerinin AB üyesi bir devlet, “Kıbrıs” tarafından engellendiği bir durumda buldular.

Bu bildiri Kuzey Kıbrıs Türk Cumhuriyeti'nin tanınmaması nedeniyle Kuzey Kıbrıs üniversitelerine uygulanan ayrımcılığın örneklerini ortaya koymaktadır. Bir devletin tanınması siyasi bir fiildir. Üniversitelere buldukları devletin tanınmaması sonucu uygulanan tecrit ve ayrımcılık, siyasi bir fiil olarak üniversitelerin tanınmamasına benzer. Devletlerin tanınması ile üniversitelerin tanınmasını ayırmak için yeni modeller geliştirilmelidir.

**Anahtar Kelimeler:** Kıbrıs, eğitim hakkı, insan hakları, tanıma.

### ABSTRACT

Today, no one would doubt that education is a fundamental human right. The spirit and wording of International Human Rights Law requires States and International Organizations to remove any obstacle for the right to education.

In 2004, Cyprus became a member of the EU. Although 64.9 % of the Turkish Cypriots voted in favor of the unification of Cyprus, they still find themselves in a position where their development and fundamental rights, including the right to education, are blocked by an “EU member state, Cyprus.”

This paper presents examples of discriminatory practices against universities in North Cyprus, stemming from non-recognition of the Turkish Republic of Northern Cyprus. Recognition of a state is “**a political act**”. Seclusion of and discrimination against universities due to non-recognition of the state where

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they are located, is synonymous to non-recognition of universities as a “political act”. New models should be developed to separate the two: Recognition of the state vs. recognition of the universities.

**Key Words:** Cyprus, right to education, human rights, recognition.

## INTRODUCTION

Since the beginning of the twenty first century, a greater sense of responsibility has been developing on issues such as human rights, environmental protection, terrorism, and social and economic development due to impact of globalization. Predominantly, states adopted a great number of legal instruments for the protection of the human rights either in general or focusing on specific rights (against genocide, *apartheid*, torture, etc.) or on particular categories of human beings (women, children, workers, etc.) Human right regulations have become binding upon states whether they have ratified relevant international conventions or not. (pellet, 2000) In modern democracies, human rights regulations have been incorporated into domestic laws of states as well. On the other hand, it is possible to say that human rights issues are no longer a domestic matter for states due to the increasing global interdependence of the world. The duty of the international community to react against human rights violations, and respect for fundamental human rights should not remain an ideal to be achieved but a requisite foundation in every human society for their political, social, cultural and economic development. (Pellet, 2000)

In this regard, as one of the fundamental human rights, the right to education has a distinct character for full implementation of human rights standards and for the prevention of human rights abuses. The right to education is essential and indispensable for the exercise of all other human rights and social development. . (Tomasevski, 2001: 9) It is highly instrumental in the realization of human rights that it enhances civil, political, economic, social and cultural rights. Recognition of the right to education stems from the very heart of UNESCO’s mission, and is an integral part of its constitutional mandate. Therefore, every eminent Human Rights convention has included the right to education since the Universal Declaration of Human Rights in 1948 in order to ensure the right to education for everyone and to ensure its accessibility to all. (see Universal Declaration of Human Rights, 1948, article 26) Article 2 of the UNESCO convention establishes that “the term ‘education’ refers to all types and levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given”. (see UNESCO Convention against discrimination in education, article 1) Moreover, Article I provides a clear definition of the term “discrimination, “understood to include any distinction, exclusion, limitation or preference based on race, color, gender, language, religion, political or other opinion, national or social origin, economic condition of birth, has the purpose or effect of nullifying or impairing equal opportunity and treatment in education. Also in ECHR, right to education is

defined as “inalienable”, in article 2 of protocol 1. (see European Convention on Human Rights, Protocol 1, Article 2). Consequently, States, who are party to at least one of these conventions, and International Organizations, are obliged not only to prevent discrimination on the grounds of gender, ethnicity, language, religion, opinion in education, but also to promote equality of opportunity and treatment for all in education.

This paper presents gross violation of the “right to education”, and hence the human rights of Turkish Cypriots and other students and staff of the universities in North Cyprus.

### **1. Brief Political History of Cyprus**

After independence from British colonial rule in 1960, a partnership republic, under the name of “Republic of Cyprus”, was established between the Turkish Cypriot and Greek Cypriot populations of the island. (Özersay, 2005:381) Among other things, this partnership, and joint governance of the island, established a constitutional devolution of the responsibility for education to the two communities. Turkish Cypriots were to run their own educational, cultural and religious affairs, and likewise, Greek Cypriots were to do the same.

Unfortunately, the partnership republic lasted only three years, and in December 1963, Greek Cypriots forced the Turkish Cypriots out of the government, and also attempted to annihilate the Turkish Cypriot population of the island by force of arms. This serious attempt at “ethnic cleansing”, 30 years before the Bosnian war, lasted 11 years, until Türkiye intervened. In 1974, Türkiye sent troops to the island to put a stop to Greek Cypriot attacks against Turkish Cypriots, and stop the killing. In 1975, there was an exchange of population agreement between Northern Cyprus (Turkish Cypriot) and Southern Cyprus (Greek Cypriot) (Sözen, 2004: 4). This bi-zonal arrangement and presence of the Turkish Peace Forces in North Cyprus created the longest period of stability and peace on the island which still prevails today.

After 1974, attempts by the UN for a peaceful settlement of the conflict produced no tangible results. For political reasons, Greek Cypriots continued to being “recognized” by the world community as the legal government as the “Republic of Cyprus”, even though they usurped the title by forcing the Turkish Cypriots out of the government. On the other hand, Turkish Cypriots continued to be forced to sit at the negotiation table as a “community” (against the “recognized government of Cyprus”). This, an uneven negotiating table, has been the main stumbling block in negotiations, as the Greek Cypriots saw their all-Greek-Cypriot-run “recognized Republic of Cyprus” as an advantage to prolong the negotiations and evade a settlement. To correct this and in order to create an even negotiating table, in 1983 Turkish Cypriots declared a separate state, called the Turkish Republic of Northern Cyprus (TRNC). This would have made “state-to-state” negotiations and a federal settlement possible. However, TRNC’s recognition was effectively blocked by the Greek Cypriots,

and to this date TRNC is recognized by only one country, Türkiye (Sözen&Çarkoğlu, 2004: 124). As a result, another 20 years of negotiations, after TRNC's declaration, produced no result. In late 2002, UN prepared a comprehensive settlement plan, commonly known as the "Annan Plan", to bring about a "United Cyprus Republic" under a federal umbrella. This plan had international backing, and it was also accepted by the Turkish Cypriots and Türkiye. (Özersay, 2005: 385) When it was put to a referendum on 24 April 2004 Greek Cypriots demonstrated yet another example of their intransigence by rejecting the plan.

Despite all this, irrespective of the prevention of the comprehensive settlement for unification in Cyprus by the "no" vote of the Greek Cypriots, the Greek-Cypriot run "Republic of Cyprus", was made a full Member of the EU as of 1 May 2004. . (Özersay, 2005: 381) This membership, to top the ill founded decision of the world community in 1964 that allowed the Greek Cypriots to usurp the partnership republic title, i. e., the "Republic of Cyprus" until a settlement was reached, compounded the problem. The Greek Cypriots saw these as important tools and arms, which they can use to isolate and suffocate Turkish Cypriots and their state, the TRNC. In summary, since 1963, the Greek Cypriots, with the blessing of the international organizations, have been keeping the Turkish Cypriots out of the government of the partnership republic, out of any power sharing arrangements in the governance of the island by using the international community, international organizations and the EU to impose international isolations on the Turkish Cypriots in all walks of life (trade, travel, sports, education, etc.). As such, the Cyprus problem still remains unresolved, and according to Article 1 of Protocol No. 10 to the Act of Accession, the EU decided to suspend implementation of the *acquis communautaire* until a comprehensive settlement is reached in Cyprus. (See: **The Accession Treaty of the Republic of Cyprus**, Protocol No. 10, article 1)

## **2. Development of Higher Education in North Cyprus**

Prior to the 1963 inter-communal conflict in Cyprus, Turkish Cypriots had only one tertiary education institution; A "Turkish Cypriot Teacher's Academy" established in 1934. Following the division of the island in 1974, the Turkish Cypriot administration began to address the absence of higher educational opportunities for young people in North Cyprus, and discussions led to the establishment of a Higher Technological Institute (HTI) in 1979, with English as the medium of instruction. Three years later, recognizing the high academic standards and laboratory facilities at the HTI, the Turkish Higher Education Council (YÖK) of Türkiye accredited a four-year B. Eng. course, which was instituted in 1982: the first B. Eng. degrees were conferred in June 1984.

In 1986 the governments of the TRNC and Türkiye agreed to open a university in North Cyprus under the aegis of YÖK; and in June 1986, the Parliament of the TRNC passed a new law that formally granted the HTI a

charter establishing it as a “state-trust” institution of higher education under the name Eastern Mediterranean University (EMU). The university was then fully accredited by YÖK; as a result, the degrees and diplomas awarded by EMU have generally been recognized internationally, despite the non-recognition of the TRNC.

After 1986, the campus and academic infrastructure of EMU grew at an extraordinary rate. Campus development of buildings was funded by the TRNC government, primarily with aid from Türkiye. Higher education seemed to be a large part of the answer to economic isolation; and so, private universities began to spring up around North Cyprus: Girne American University (Kyrenia; established 1985), Near East University (Nicosia; est. 1988), European University of Lefke (Lefke; est. 1989), International American University (Kyrenia; est. 1992, closed down 1999), Cyprus International University (Nicosia; est. 1997), and most recently, a private campus of a Turkish state university, Middle East Technical University (Güzelyurt; est. 2002). Moreover, following the footsteps of METU, Istanbul Technical University (İTÜ) has signed a protocol with the TRNC Ministry of Education and Culture to open campuses in Northern Cyprus. There is also a branch in Nicosia of Anadolu University’s “open university” Faculty.

Now 6 universities... Regardless of these emerging problems, the state and private individuals realized earlier on that the increase in student numbers in North Cyprus entailed substantial economic benefits to a state whose international non-recognition had effectively crippled the tourism sector on which it relied. Today, there are 40, 000+ students, 25. 000+ from Turkey and 4000+ from 65 different nationalities, studying at various universities in North Cyprus.

### **3. Violation of Human Rights of Turkish Cypriots: Violation of “Right to Education”**

Following the “yes” vote of the Turkish Cypriots in 2004 in the referendum over the Annan Plan, which would have brought the two communities of the island together under a “United Cyprus Republic”, the international community, especially the UN and the EU announced that all necessary measures would be taken to ease and remove the isolations imposed on the Turkish Cypriots. (Sözen, 2005:465)

Despite the constructive attitude that the Turkish Cypriots demonstrated pre and post referenda for the comprehensive solution of the Cyprus problem, the international community has not yet lived up to its promises of breaking the isolation of North Cyprus. The educational consequences of the international isolation of North Cyprus have been serious; this has prevented free movement of students and staff. Hence, students and staff constrained and deprived of academic liberty, exchange of ideas, international stimulation, and intercultural experiences.

Moreover, as a direct result of the political obstruction and constant harassment by the officials of the Greek Cypriot Administration and even the Greek Cypriot academicians, research and development projects and educationally beneficial funding for students, staff, and local Cypriots cannot come to fruition. Greek Cypriot officials even try to block standard academic cooperation agreements between universities in North Cyprus and their counterparts overseas.

In October 2006, Eastern Mediterranean University sent an “Appeal to UNESCO” requesting action to censure policies and acts of discrimination against universities in North Cyprus and their higher educational mission. The main concern of this appeal was to stop discrimination and politically-motivated attacks by Greek Cypriot authorities against North Cyprus universities, and enable inclusion of the Turkish Cypriot universities in the UNESCO-sponsored handbook of world list of universities, and to make Turkish Cypriot Universities eligible to benefit from financial assistance programs provided under UN-supported programs in Cyprus and the EU Higher Educational opportunities and programs, such as Erasmus and Socrates. On March 9, 2007, UN Human Rights Report on Cyprus recorded our appeal as a serious human rights violation (see Cyprus Report of the UN Human Rights High Commissioner, article 18, 2007)

*“Turkish Cypriot students continue to be confronted with lack of access to the Erasmus, Socrates and Bologna processes or other European scholarship programmes. The issue has been linked to the non-recognition of Turkish Cypriot universities. The right to education is a fundamental human right, and the current situation prevents the free movement of students and staff and constrains academic freedom, the exchange of ideas and international competition.”*

#### **4. Discrimination Against Universities in North Cyprus: Examples of Continued Segregation**

##### **Exclusion from the Handbook of World List of Universities and WHED:**

Universities in North Cyprus are not listed in important reference publications such as the International Handbook of Universities, the World List of Universities and the World Higher Education Database (WHED). These reference publications come out annually as a result of joint endeavor of UNESCO and the International Association of Universities (IAU), based on an agreement creating the IAU/UNESCO Information Centre on Higher Education. Discriminatory practices against universities in North Cyprus, and hence their exclusion from such publications, have detrimental effect on the universities’ operations and alumni: being listed in these publications is important because in some countries they are used in granting equivalency and recognition of diplomas.

Since these publications are prepared for press by IAU, the universities in North Cyprus sought membership in IAU. The early responses indicated that “IAU, a UNESCO-affiliated NGO, must follow UN principles in accepting members, and an applying institution must have ‘recognition by the national government’”. IAU indicated that they will not accept TRNC Ministry of Education’s recognition of the institution.

After an appeal to the Board of IAU, renewed deliberations in the IAU annual meeting held in Alexandria, Egypt on November 15 2005, IAU responded positively to Turkish Cypriot Universities’ application. In recognition of the special situation and conditions in Cyprus, the term “recognition by the national government” was changed to “national recognition”. Therefore it is acknowledged that Eastern Mediterranean University is a nationally recognized institution in Cyprus without being recognized by “the national government”.

However, although three universities in North Cyprus were accepted as full members to the IAU as of December 2005, they are not included in the aforementioned reference publications due to non-recognition of the TRNC. In June 2007, the Executive Committee of the Administrative Board of the IAU took a final decision on our appeal for inclusion in the IAU reference publications. It refused inclusion of the universities in North Cyprus in the reference publications on the grounds that these universities are not listed among institutions recognised by the competent national body in one of the countries recognised by the UN (i. e., “Republic of Cyprus”). In other words, non-recognition of the TRNC (“a political act”) is used as a yardstick to exclude the universities from an important reference publication.

#### **Exclusion from the Bologna Process**

The Bologna Process, a major higher educational reform in Europe, seeks to integrate higher education practices, making it easier for students and lecturers to transfer between universities. Ultimately, the Bologna Process intended to **create a European Higher Education Area (EHEA) by 2010**, in which students and academics will be able to transfer between educational establishments without encountering any impediment and will also benefit from smooth recognition procedures.

Cyprus as a whole (North included) is in “geographic Europe”. Universities in North Cyprus are undoubtedly in “geographic Europe” and they cannot be left out of the (EHEA). North Cyprus is by *de facto* in EHEA. Since 90 % of the students studying in North Cyprus are either EU citizens or from an EU candidate country, inclusion in Bologna Process is of vital importance to universities in North Cyprus. If these universities in North Cyprus remain outside this process, which implies that students who enrol there have little or no chance of enjoying the possibility of transferring elsewhere in Europe during their studies, this will put universities in North Cyprus at a disadvantage in

recruiting students. The only two criteria for membership in the Bologna Process are as follows :

- Ratification of the European Cultural Convention of Council of Europe, and
- A commitment to the goals and policies of Bologna Process

With the above arguments, in January 2007, authorities in North Cyprus submitted an application for membership to the Bologna Process and demanded inclusion of its 5 universities, and the 40,000 university students studying in North Cyprus in the EHEA. Having granted a full individual membership to the Eastern Mediterranean University (EMU), the oldest and the most international university in North Cyprus, the European University Association earlier this year carried out a deep-probing institutional evaluation of EMU, findings of which were published in early May (EUA Institutional Evaluation Programme, Eastern Mediterranean University EUA Reviewers' Report, 2007). This report elaborated the Bologna Process application of North Cyprus as follows:

*“... considering that the Republic of Cyprus joined the European Cultural Convention in 1969 (when the island was still one entity), which legitimizes an inclusion in the Bologna process, the Turkish minority contends that it has been brought into the agreement de facto, all the more so as the [Republic of Cyprus] Constitution of 1960 devolved power to the two communities as far as education and culture were concerned, like in most federal states. As a result, North Cyprus is asking the London conference of Ministers of Education in May 2007 to recognize that matter as a fact justifying the official inclusion of its institutions of higher education into the Bologna process towards 2010 and the finalization of the European Higher Education Area.”*

Turkish Cypriots are committed to adopt the higher educational standards, particularly to the standard set forth by the European Higher Education system and the Bologna Process. As a result, the Higher Education Council of Northern Cyprus (YÖDAK) has been set up as the competent central authority for implementation of the reforms for harmonization within European standards of higher education. Through YÖDAK, the qualification concerning Higher Education and diploma issues in Turkish Cypriot Universities will be deemed recognizable in the EHEA, granted these institutions fulfil the requisite objective criteria of the Bologna Process and meet the quality assurance schemes of YÖDAK, ENQA and EUA.

Greek Cypriots objected to the North Cyprus' Bologna application by saying that North Cyprus is not an internationally recognized country. Again “**politics**”, non-recognition of the TRNC, got in the way of an application which should have been handled carefully as a matter of “educational rights”. Unfortunately, the outcome of the Bologna Ministerial Conference in London

was not a decisive one, and did not produce a victory for the youth of North Cyprus and their “right to education”.

### **5. Social and Economic Consequences of Exclusion for Turkish Cypriot Universities**

Under the extraordinarily unique circumstances surrounding North Cyprus, the issue of participation in the Bologna Process, alongside inclusion in UNESCO’s World List of Universities is directly related to institutional autonomy of the universities in North Cyprus, and critical to every aspect of their mission, which is predicated on social and cultural values, rights, and needs, as well as on fundamental principles of academic freedom.

As yet, international community has not fully realized the practical consequences and benefits of the interaction provided through the participation of higher educational institutions in educational processes driven by Europe and UNESCO. North Cyprus is located on the southeastern border of Europe, at the Mediterranean nexus of the Middle East, North African and West Asian regions, where belief systems and social systems are constantly under threat of clashing. For political reasons, not only international staff and students from the region and from an EU candidate-country, Turkey, but also several generations of Turkish Cypriot students and staff, who are legally EU citizens, have been denied their right to freedom of movement, and to educational opportunities that would prepare them for a collaborative and competitive future in Europe in the context of a potential resolution to the ‘Cyprus problem’. Lifting the isolations imposed on universities in North Cyprus will create opportunities for supporting students and staff in overcoming geographical, historical, and linguistic parochialism-- this has significant ramifications for national and regional development.

Inevitably, the Turkish Cypriots, too, have to follow emerging trends in the global scene to be able to compete in a global market. Therefore, there is an urgent need for educated and qualified graduates to serve the needs of the government, businesses and industries in order to build a future for the Turkish Cypriots in the EU; controlled national, cultural, infrastructural and technological development through exchange of information, sharing of expertise, and intellectual resources is extremely crucial; and there are impending calls for contributing effectively to local, national and regional research and development. (Otero&McCoshan, 2005: 12-13)

The exclusion of universities in North Cyprus is already becoming a critical matter in relation to faculty and student morale; it is affecting the student intake, as it is restricting mobility and precluding diploma recognition; it is also limiting the free movement of and access to research funding of the faculty; and it will soon have serious adverse effects on both faculty and student recruitment, the University’s competitiveness, and the Turkish Cypriot economy. The problem, in fundamental nature, is as follows:

This means that universities in North Cyprus will continue to be excluded from the Bologna process and reference publications, where both Greek Cypriot and Turkish institutions are participating; and within the next two years, will be unable to compete for either students or staff. This deficiency will be detrimental to the universities in North Cyprus as demand for them will drop drastically.

Recent graduates of universities in North Cyprus have already started to encounter diploma recognition problems. The higher education sector in North Cyprus will suffocate due to reduced demand, and this will also contribute to the destruction of the largest sector of the Turkish Cypriot economy.

### CONCLUSION

In North Cyprus, seclusion of higher educational institutions constitutes a significant obstacle to the realization of 'right to education'. The main obstacle to the efforts of the universities in North Cyprus to educate their students, facilitate research and development, and provide services to the community has been:

- Constant harassment and discrimination by Greek Cypriot authorities, ambassadors, and even academicians;
- Isolation and exclusion caused by the non-recognition of North Cyprus and the TRNC – lack of access to international funding sources, research funds, European educational funds, etc.

So far, universities in North Cyprus have made proactive efforts to bring these matters to the attention of the Council of Europe, the European Commission and UNESCO, as well as Bologna Follow Up Group. The shadow is cast on our inclusion due to "recognition- non recognition" issues, and the politics of the Cyprus problem. "Politics" is beyond the control of universities, its academicians and students. The exclusion of North Cyprus from Bologna, Erasmus and Socrates programs has been recorded in the UN reports as a violation of human rights of the Turkish Cypriots.

As far as the rule of law goes, the right to education of Turkish Cypriots constitutionally falls under the jurisdiction of the Turkish Cypriot authorities. Therefore, the Turkish Cypriot universities have the right to be represented by the Turkish Cypriot authorities in the Bologna process, and also be listed in IAU Reference Publications. In the Appendix, legal precedents from applications of international law, which support this claim, are presented.

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## APPENDIX

### Legal Precedents from Applications of International Law

Following the referenda in 2004, the Council invited the Commission to bring forward comprehensive proposals to this end with particular emphasis on the economic integration of the island and on improving contact between the two communities and with the EU." In response to this invitation, the Commission proposed on 7 July 2004 a comprehensive package of aid and trade measures: the regulation on establishing a legal instrument for encouraging the

economic development of the Turkish Cypriot community (“**Aid Regulation**”) and the 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 (“**Direct Trade Regulation**”). These regulations were prepared by the Commission but blocked in the EU Council by the Greek Cypriot government. Finally, in February 2006, the EU Council approved the “Aid Regulation”. As to this regulation of the Council, the financial assistance can be supplied directly to the beneficiaries in order to allocate the financial support in the most efficient and rapid way. In other words, in the implementation of actions financed under this Regulation, assistance shall benefit, inter alia, local bodies **which were founded under the laws of TRNC and are** carrying out functions in the general interest in the areas, including higher education institutions. Therefore, their eligibility under that regulation does not depend on registration in a company or association register of the Republic of Cyprus. The same rationale may apply to participation of the Turkish Cypriot universities in the Bologna Process.

With reference to the Advisory Opinion of the International Court of Justice in the Namibia case, ECHR, in *Cyprus v. Türkiye* case, considered that in situations similar to the Namibia case arising in the Cyprus case, the obligation to disregard acts of *de facto* entities, like the “TRNC”, was far from absolute. The Court underlined the fact that “life went on in the territory concerned for its inhabitants and that life must be made tolerable and be protected by the *de facto* authorities.” Therefore, the Court ruled that the acts of those authorities should be regarded valid by third States or by international institutions, in the interests of the inhabitants. The Court pursued its decision as follows:

*“To hold otherwise would amount to stripping the inhabitants of the territory of all their rights whenever they were discussed in an international context, which would amount to depriving them even of the minimum standard of rights to which they were entitled.” Cyprus v. Turkey (application no. 25781/94)*

Recently in its decision on the case of *Xenides-Arestis v. Türkiye*, the ECHR concluded that the “Immovable Property Commission” which was established under “Law no. 67/2005” for the purpose of examining applications made in respect of properties within the scope of the aforementioned law, has the competence to decide on the restitution, exchange of properties or payment of compensation. **The ECHR recognized this Commission, which was formed in line with the new compensation law, the “Law for the Compensation, Exchange and Restitution of Immovable Properties” (“Law no. 67/2005”), enacted by the authorities of the “Turkish Republic of Northern Cyprus” (“TRNC”) and which entered into force on 22 December 2005.**