

THE PRINCIPALS OF THE PLANNED FEDERAL STATE IN CYPRUS

“Kıbrıs’ta Kurulacak Federal Devletin Temel Unsurları”

Soyalp TAMÇELİK*

Abstract

In this study the basic elements and features of the federal state that is considered to be established in Cyprus. The main purpose of the study is to classify and show the basic elements of the new state that is considered to be established in Cyprus.

The presence of the state that will be established in Cyprus will be possible by some factors coming together. These can be separated into two parts. The elements related with the federal state that is considered to be established in Cyprus can be separated in to two parts: *‘physical elements’* and *‘founder elements’*

First of all, *the physical elements* of the federal state are human community and geographical location (in other words country) and *the founder elements* are independence, management type and organization (in other words incorporated body)

From this point of view, the research consists of two main parts. In first part, *the physical elements* of the federal state that is considered to be established in Cyprus are examined. In second and last part, *the founder elements* of the state to be established and their features are examined.

Keywords: Cyprus, Federation, Physical elements, Founder elements, Political equity, Common participation, Sovereignty.

Özet

Bu araştırmada, Kıbrıs’ta kurulması düşünülen federal devletin temel unsurları ve özellikleri ele alınmıştır. Bundan hareketle Kıbrıs’ta kurulacak devletin varlığı, iki kısımdan oluşacağı düşünülmektedir. Bunlar *‘maddî’* ve *‘kurucu unsurlar’* olarak ikiye ayırmak mümkündür.

Federal devletin *maddî unsurları*, insan topluluğu ve coğrafik mekânken, *kurucu unsurları*, egemenlik, yönetim şekli ve teşkilatlanma olarak ortaya çıkacaktır.

Bu gerçekten hareketle araştırma, iki ana bölümden oluşmaktadır. Birinci bölümde Kıbrıs’ta kurulmak istenen federal devletin *‘maddî unsurlarının’* neler olacağı, ikinci ve son bölümde ise *‘kurucu unsurların’* özellikleri belirtilmiştir.

Anahtar kelimeler: Kıbrıs, Federasyon, Maddî unsurlar, Kurucu unsurlar, Siyasî eşitlik, Ortak katılım, Egemenlik.

INTRODUCTION

The existence of the new state in Cyprus will be possible if some sort of elements come together. In other words, the principal elements of planned federate state can be divided in two as *physical elements* and *founder elements*. In fact, while the *physical elements* of federate state are human community and country, the founder elements of this state are sovereignty and legal personality. Accordingly, the *physical* and *founder elements* of federate state’s elements can be represented like this:

1. THE PHYSICAL ELEMENTS OF FEDERATE CYPRUS STATE

1.1. The Community of Federate State

In fact, the community is the human elements of a state (Göğer, 1971, p. 137). With this side, the human elements of a state are bound to a clear explanation of idiom such as society and folk. Because there is a clear difference between society and folk society, a small port tradition, is a human community which has to live in a separate state because of geographical, economical or historical reasons. In other words, *society* is a small part of a nation. For this reason, within the terms of TRNC state’s policy,

* Dr., Gazi University, Institute of Social Sciences, soyalp@hotmail.com

“Cyprus Turkish community is determined as an unseparatable part of great Turkish nation who fight for his right and freedom throughout the history” (Kıbrıs Sorunu, 1975, p. 9). Moreover, it’s impossible to talk about existence of state without human community. But this is also a fact that it’s also not true to say a definite amount about the human community who is the originated of the state. Because it is possible to coincide with small states originated by a few thousand people. But in our age, the population of most states goes beyond the millions.

Actually, in our time one of the must of the state’s existence is the will and ability of human community for organization as a state, but nothing (Kapani, 1988, p. 35). The virtual prospect of this will and ability is to get up to sense of *total freedom* and project the freedom in the presence of other human community. Therefore, it can be possible to call human community as a *nation* (Göger, 1971, p. 137) who has the will and ability to organize a state and project his freedom consciously in the presence of other nations. Nation is a legal fact besides being a social fact. Because, even though it’s not clearly know which historical, sociological and political factor has a role to originate a nation, it’s clear that multiple factor has a role to create a nation. It’s possible to give example of these factors. Certain factors like race cooperation, moral factors such as language and cultural cooperation, economic, legal and political factors such as common physical interest and organization (Göger, 1971, p. 137; Kapani, 1988, p. 35). As it can be understood, a state can afford its security by affording its citizen’s security: Essentially, a state’s permanence can be possible provided that the right and freedom of her citizens are guaranteed (Liderin Demokrasi Anlayışı, 2000, p. 186). Because it is not possible to sustain any state with citizens whom are lack of human rights and unable to use his own rights and freedom.

It should be kept in mind that the state is not a godlike actuality but simply a service organization and even that the thing that makes the state more powerful is the confidence of nation behind it. Accordingly, if the state doesn’t confide in nation, it’s not possible that the state will be powerful (Liderin Demokrasi Anlayışı, 2000, p. 164). Namely, if the people are not happy in their lives and can’t use their rights and freedom significantly then the state that they originated won’t be powerful. It’s understood that the state should only respect to the rights and freedom of her citizens (Yılmaz, 1999, p. 59). Because respect is a neutral attitude. Consequently, the thing that the states do is to go by another step. Because the state is the protector of the rights and freedom of her citizen. In real sense, the must provide the necessary facilities in order to profit from all of at these. Moreover she has to provide security for her citizens.

Accordingly, in following times if peace and comfort in Cyprus is not to be turned into an unrepairable injures or if it is needed to prevent unjust treatment, hostility and enmity in the community, it is a must to settle a liberal system for both communities.

In that point, the basic problem, in Cyprus, of providing freedom for both community and protection of these are the things that come into picture again. So the protection of rights and freedom of both communities and citizens in Cyprus should be guaranteed by the planned federate state. In other words, it must be marked that Federal Cyprus State’s political system is constructed upon both citizenship and community axis. That’s to say, henceforth not only the security of state but also security of community is also stand in the fore fort. Because it must be essential to project cultural identities of individual, citizen or communities maximum in order to have projection of Federal Cyprus State. For, in modern age the way of projection of a livable state bounds to the projection of citizen (Yılmaz, 1999, p. 62). Accordingly, it is not possible to sustain the state with the citizens who are lack of human rights and freedom. So it’s important to construct state-community balance deeply in Cyprus. Because this is a very sensitive balance that has not to be constructed. According to this, by taking attention to ethnic structure in Cyprus, political structuring should be taken into consideration. Ethnic, cultural and religious differences of folk on island should be marked by the federal state that they settled in border. So each folk has the right of voice himself in their border. But this subject is a serious debating between the parties.

Basically, in first sight this debate can be seen as an internal matter that only interest of people whom live on the island. But there is a community in Cyprus which is originated by two different ethnic groups. Turkish and Greek communities are extremely relaxed and tolerated in their social relationship. There can be friendship and cooperation between individuals. Moreover, it can be said that they get on well with each other. But when it comes to administrate the state, as Çağlayangil says, the doing suddenly changes and conflicts show its face (Çağlayangil, 1990, p. 397). Because each part wants to behave in terms of his own custom, tradition and benefits. So the debate never loses his place in these communities.

In fact, this disagreement has a various reasons. Among this reasons, demographical structure has a great importance. Once Greeks population is more than Turks. So they see it as a right to have last word in administration and municipality services. The Turks accept that they are less in population and beside they affirm that they are equal Greek as a social community. And at this point, when English decided to leave from the island, the owner and governor of the island was a problem.

In fact, the claims of Greek about this matter are an attentive one. Because, according to Greek, Turks rent the island from English (Tamçelik, 1997, p. 22-25, 53-61). Even, they declare off their rights on the island in Treaty of Lausanne (Çağlayangil, 1990, p. 397). So, Greek puts forward that Turks have no rights on the island and the new owner of the island should be themselves on the basis of population. The fact is that, their aim is Enosis. In contrast, even if Turks realize the rights on the island end, they defend the winning of their rights coming from the history. In real, even this different will or claim shows that there isn't any local folk or island folk on the island. That's to say, on the island there Turks coming from Anatolia and Greece coming from prolongation of Greek as they claim so. Because, Turks with the slogan of "Division or Die" however, Greek with the slogan of "Enosis", they come together in the square with these slogans.

This means that the distribution of rights and the contribution of communities can be done purposefully hardly with existing conditions and Treaty in 1959-1960 on the name of *Enosis* and *Taksim*. So Cyprus could be liberated from losing itself on behalf of 'Enosis' and 'Taksim' (Denktaş, 1996a, p. 73). Thereby, while providing the counterpoise and equality in the relationship of both countries' communities in Cyprus are acquired, the equal partnership of both communities in terms of political side and any dominance of communities upon the other communities are subjected in to the condition. In fact, the constant of interior threat in view of this common republic causes 'continual'¹ of guaranty system. Beside the reason of making Guaranty and Agreement before is that. Hence, the restrictions those prevent the both homeland from entering the only house at the same time and the uniting of Cyprus with other country semi-partly or partly are also realized because of this². In fact, if it's needed to explain this matter another way, it can probably said that with the Treaty of 1959-1960, a Cyprus Republic is established on the basis of *political equality* between two equal political sides in Cyprus (Ünal-Coşkun, 2001, p. 42). Anyhow, it's accepted in the ground law of United Nations on the basis of constitutional provision 73, that the Turks from Cyprus are different nations (Erim, 1975, p. 8; Kıbrıs Sorunu, 1975, p. 9). Moreover, between 1957-1960 an associated republic is established on this basic with these both communities and this state is accepted by the United State nations in Cyprus (Mewhinney, 1966, p. 76-87; Erim, 1975, p. 15-42). But this republic, together with being independent, with some aspects its not totally sovereign is also a fact (Ertegin, 1984, p. 3-9). For example, this new state grant some rights about the state of Turkey, which is seen 'homeland' by Turks; Greece which is accepted as a 'homeland' by Greek and the old exploiter country England which owns the Cyprus legally since 1923. First of all, incase of changing the constitutional framework totally or party that is established on the basis of international agreement, these three states have the right to intervene in action separately or in company. The sovereignty rights of this new state are restricted in a manner and tolerably (Ertegin, 1984, p. 3-9; Sonyel, 1997, p. 15-23). As it's seen, the new *Cyprus Republic*, established according to the Treaty of 1959 and 1960, is depended on coparcenaries between Turks and Greeks and these effects reflect the approach of the administration to the new-constructed system. For example, the president is chosen from the Greek whereas his secretary is chosen from Turks. Apart from this, the secretary of president has right to vote all the decision. With this, Turks and Greeks gain the right of presentation in Republic foundation with certain quota and they provide exactly to reflect this quota of the population on the island (Sonyel, 1997, p. 15-23; Ünal-Coşkun, 2001, p. 42). Beside in the plan which's prepared by the English jurist the participation of Turks and Greeks in ruling the country is not organized in the from of minority and majority aspect but in the presentation of two separate communities. For instance, in Winster project it's foreseen the representation of Turkish society in 'chamber' and 'executive committee' and it's explained that Turkish attorney is choose by their communities (Bilge, 1986, p. 72). Also in the following Radcliffe project, the same system is carried on in a developed way. That means in chamber representation of Turks as a society is foreseen. Participations of jury, constructed with Greeks and Turks, are arranged. Apart from this, it's thought that a guaranty jury is established in order to prevent discriminating works belongs to Turkish

¹ See.... "KKTC Cumhurbaşkanı Rauf R. Denktaş'ın Rum Lideri Glafkos Klerides'e Yazdığı 22 Eylül 1996 Tarihli Mektup", KKTC Cumhurbaşkanlığı Arşivi, Dosya: Mektuplar, Tarih: 22 Eylül 1996.

² Also see.... "KKTC Cumhurbaşkanı Rauf R. Denktaş'ın Rum Lideri Glafkos Klerides'e Yazdığı 22 Eylül 1996 Tarihli Mektup", KKTC Cumhurbaşkanlığı Arşivi, Dosya: Mektuplar, Tarih: 22 Eylül 1996.

community. So, English grant autonomy ethnically to Turks (Bilge, 1986, p. 73). Hence, it's clearly seen that in the following times the Republic of Cyprus will be a "sui generes" (Stanley, 1960, p. 246-247; Alasya, 1964, p. 118-119; Alasya, 1969, p. 5) specific republic from 1948's. Therefore, in 1960 the right of entering a new formation in contravention of a copartner will or the right of eliminating itself in this common republic which is constructed on the basis of both side's will are not granted as a right³. Because as Gurel said before, the solution of 1960 is a result of 1960 domination (Tavşanoğlu, 1998, p. 13). In other words, this solution is a recipe of parts that are interested in Cyprus.

But this is also a fact that the republic of Cyprus is a benefaction to 'Cypriot' from Turkey and Greece (Deliceirmak, 1993, p. 109). Because, first of all, there are two important must of these independence. One is the giving up all the ideals of both countries and the other is the establishing of a new republic based on two equal communities. In fact, the established state is the state of which is not named (Gülen, 1998, p. 7). Because when it's looked Cyprus constitutional, it's seen that this is a state which is established on equality of both communities. So as Christian Heinze says the republic of Cyprus bases on 1959-1960 Treaty could be neither a unitary state nor a Greek and Turkish state (Kıbrıs Sorunu ile İlgili Yeni Görüş Açılımları, 2001, s. 58). For, this republic is established on *collective agreement* (Emin, 2002, p. 18) of Cyprus Turks and Greeks who protect their religious and national identity at the same time and has lived together for 400 years on the island.

It's understood from this, while the new state, established in 1959 Treaty, are securing the sharing of political and administrative of Turks and Greeks on island (Halley, 1985, p. 8), at the same time it has also grant some rights to Turkey and Greece which balance each other on the rights of island (Denktaş, 1997, p. 2). However, it's understood that the aim of Greeks in Cyprus is not that after the events of 1963. Because the aim of Greeks assaults in 1963 is firstly to transform, Cyprus totally into Cyprus Greek State by abrogating the dual identity of Cyprus and assimilate them with the rights given to minority as in all countries with the way of despoiling them from their constitutional rights totally after transformed into outvoting as it's not possible to fulfill the purpose (İsmail, 1998a, p. 284).

So it can be said that the main problem of Greek is to make the island as a Greek State and make Turks in minority who are guaranteed. In contrast, the struggle of Turks in Cyprus is to prevent such kind of attempt and continue common partnership between two communities according to Zurich and London Treaty (Clerides, 1990, p. 105; Denktaş, 1996b, p. 4; İsmail, 1998b, p. 301). Hence, conflict was a principal conflict and both parts prefer argue rather than come together and they are even ready to dispute (Clerides, 1990, p. 105).

However, as Cuellar says Cyprus is the common homeland of Turks and Greeks communities⁴. So the type of relationship must not be the minority-majority one but the relationship between two communities in Cyprus state. But in Cyprus there is not a population gathered from one folk. So the reality of standing two folk which is gathered from Turks and Greeks on the island should be taken into consideration. According to this, as Denktash explains the view of Turks is like this:

1. Cypriot Turks nation includes all the citizens who are Turkish stock of federation and whose native language is Turkish or Muslim.

2. Cyprus nation includes all the citizens who are Greeks stock and whose native language is Greek sharing Greek culture or connected to Greek Orthodox Church⁵.

It's understood from this, political condition, when the legal statue of two state's established on old Cyprus Republic, is taken into consideration, political union, just between to political system can be possible with an agreement related with a state established on two region and two communion⁶. Without denying self-determination right of both ethnic group, such a constitutional entirety of a new federate system is seen the basic prerequisite of transferring of two domination to a new state. From this, Turkish side wants confederate system rather than federate system in the way of re-union. According to them; it's

³ See... "KKTC ve AB Üyeliği", Zaman Gazetesi, 24 Mart 1998, No:23558, s. 11.

⁴ Also see... "BM Genel Sekreteri Perez De Cuellar'ın Güvenlik Konseyi'ne Sunduğu ve New York Zirvesi'nde Yaptığı Açılış Konuşmasını Da İçeren Raporun Tam Metni - 26 Şubat 1990", KKTC Cumhurbaşkanlığı Arşivi, Dosya: BM'nin Çözüm Önerileri, Tarih: 26 Şubat 1990.

⁵ Also see... "Kuzey Kıbrıs Türk Cumhuriyeti Cumhurbaşkanı Rauf Denktaş'ın New York Zirvesinde Birleşmiş Milletler Genel Sekreteri Perez De Cuellar'a Verdiği Belge - 1981", KKTC Cumhurbaşkanlığı Arşivi, Dosya: BM'ye Yapılan Önerileri, Tarih: 3 Temmuz 1981.

⁶ Also see... KKTC Dışişleri ve Savunma Bakanlığı Tanıtma Dairesi Web Sitesi (www.trncinfo.com), Prof. Dr. Peter Pernthaler: "Kıbrıs Sorununa Federal veya Konfederat Bir Çözüm", Innsbruck Üniversitesi/Avusturya (23.9.2004).

the only realistic and democratic way to create a new, homogeneous, legal and politic system during process of transition for both separate politic communities. Because instead of the role of two separate state which gains popularity on the island as time passes by saving own identities for both side in a associated framework and living side by side would be beneficial both for Greek and Turkish in Cyprus or else two separate state phenomenon would drag on.

Whereas Greek administration behave in the concept of ‘one state-two society’ (Türkmen, 2001, p. 7; Tınç, 2001, p. 18) and suggest a federation model which presents the opportunity of administration of the island according to that (SİSAV, 1990, p. 52). In other words, while Turkish suggestions are following zigzag, Greek suggestions predict a system between federation and unitary state.

However, both communities should go at in order to have a new relationship based on cooperation, friendship and respect to each other by accepting of identity and integrity of each other (Akpınar, 1992, p. 2; BM Çözüm Pânının Tam Metni, 1992, p. 2). With this aim, both communities should accept all kinds of treatment that go against encountered solution. Because the aim of new established state in Cyprus is to provide security and comfort of human being that be getter it spiritually and materially. Provided that way, a constitution that based on *multi-ethnic culture* (Tatarlı, 2000, p. 425) in Cyprus can be protected.

1.2. The National Geography of Federate State

As it’s known, it’s a clear geographic place (Göger, 1971, p. 137). From this, as a piece of place of earth generate the country; national borders should also be clear. Because that is one of the principle of being a country. That’s to say, it’s essential that human communities should set on a section whose borders are declared. For, a state has to use his powers on a section whose borders are declared.

As it’s seen, a section, in other words country is an element of state. Even the state which belong to federate state have a country. So it’s not possible to comment republic of Cyprus as a simple state “*as Etat Unitaire*” (Eroğlu, 1975, p. 256) which closely involved with decision of their destiny and existence as a two separate communities and from human elements in Cyprus. Because, the newly established republic of Federal Cyprus will be a federate state in real, standing of a geographical principal of the state is due to its natural structure. But the important problem is now to constitute of borders of Cyprus republic based on community. Because, although a federate solution in Cyprus is admitted, the geographic borders of Canton or States which organized federation is even a serious of discussion today between sides (Denktaş, 1996b, p. 4). But, the important problem is how to constitute of borders of Cyprus this close can be solved by political manifesto and mutual agreement. Because there is a federation which stands on ‘*regional base*’ (Kıbrıs Sorunu, 1975, p. 9). So That, admitting solution of federation also means admitting of this base. Because federation also covers recognition of ‘territorial integrity’ of federate state. But each geographical redistribution is to be according to different dimensions. From this aspects none of the federate state doesn’t resemble one another. For example, there is no similarity between Soviet Russia and Swiss. So in the aspect of federate states in the same federation it’s seen that the rate of population is not used as a single dimensions. So, in a solution in Cyprus, it’s a condition that Cyprus associated state should have two regions geographically. Beside Cyprus State which is supposed to have independent and national integrity will needed to be guaranteed with an agreement which is made between Turkey, Greece and England.

When the condition is that, it’s expected to keep ties of special friendship with Turkey and Greece in the pacific atmosphere of East Mediterranean and maintenance of counterpoise between two countries.

2. THE FOUNDER ELEMENTS OF FEDERATE CYPRUS STATE

2.1. The Sovereign of Federate State

The concept of sovereign is actually an abstract term. From this point the element of sovereign affords the quality of overtop of all the other authorities in the environment (Göger, 1971, p. 138). That’s to say, it mean that the state is the top in all authorities in her environment and having no competitor around her. In fact, all these are the highest legal power and force which bound to the state and legal

personality of state of sovereign (Göger, 1971, p. 138). But the element of sovereign in Cyprus comes into emergence in a different way.

Especially, after the announcement of establishing the republic of Cyprus in 16 August 1960, the state of Cyprus apply for United Nation as a “*independent and sovereign*” (Sönmezoğlu, 2000, p. 15) state and accepted to this union by approval of three grantor state. Beside, it should not be forgotten that republic of Cyprus is a state that is emerged by clasp of hands of Turkey and Greece when the common interest in NATO are harmed. Anyway, the existence of this republic which is not belong to folks of Cyprus (Firat, 1997, p. 115) is related to showing the common will in operating of Turks and Greeks who are against each other for long years, postponing ethnic state of belonging as a cultural identity and walking away with the new identity of the plot of “*Cyprus citizen*”. However, the agreement that established the state are prepared not for folk in Cyprus but for a legal documents which protect the benefits of three states which are bound to each other culturally and historically but not for folk in Cyprus. So, these agreements are ‘constructed the *principle of separatism* rather than ‘*associated principal*’ (Firat, 1997, p. 115). Moreover, it is a fact that these three states which gain the right of granter have the view of discrimination on Turk and Greek on the island.

In fact, the only way to eliminate these negative circumstances is the well-intentioned study of leaders who are attorney of Cyprus folk about collective conscious. But it’s seen that the leaders who maintain the war of nationalism against each other for years keeps leading the country after the announcement of republic and are not interested in the agreement between each other as they often bring up the subject of *Enosis* and *Taksim* and they didn’t give up the of this and interested in Turkey and Greece rather than Cyprus. All these shows that the cooperation between the parts, which is wanted, can not be realized. Especially, while Cypriot Turks leading bring up the legal right freely until they prevent the process of state (Ateş, 1989, p. 52-54; Sönmezoğlu, 1997, p. 110; Firat, 1997, p. 115-116), Cypriot Greeks leading always tries to bring up changing ways of system that is *undemocratic and make it impossible* (Gönlübol, 1996, p. 373). So the sovereign power in Cyprus in 1960 disjoins as a result of argument between communities. The forfeited sovereign powers are perpetuated by some kind of political organization by Turkey and continuing republic of Cyprus by Greeks. But the noting of established of Cyprus Hellene Republic instead of Republic of Cyprus which is fallen by coup of Sampson in 15 July 1974 abrogated the sovereign power of 1960 Treaties and its usage rights.

Here, the period from this time up to now is full of work related with the power of reunited sovereign in Cyprus.

For example, Gobi suggested that the formula as a result of so many works on the subject that for a realistic, pragmatic and existing solution of Cyprus problem is the “*two independent communities*” (Gobi, 1993, p. 23; Ertekün, 1993, p. 3). In fact, the compensation of this advantage which is named as “*so big*” (Gobi, 1993, p. 58; Ertekün, 1993, p. 4) by Gobi requires concession of ground which is involved in ‘Gali’ map of which is know ‘*Gobi map*’ before by Turks. But between both in Greek side and USA and European power, it’s a common idea that there can be no two states on the island (Koryürek, 2001, p. 19). In real, as they say, it isn’t known whether Cyprus is a small island which gives a shelter to two states, but it’s a fact hat at least three of the independent states in the world are small states. Among the smallest of these states in Europe are Andorra, Liechtenstein, Luxemburg, Malta, Monaco, San Marino and Vatican; in Asia Qatar, Jordan, Bahrain, Maldives, and Singapore; in Africa Antigua, Barbuda, Dominican Republic, Granada Saint Kidd’s, Saint Lucia and lastly Tonga and Tuvalu States can be counted (Koryürek, 2001, p. 18-19). Additionally, the island states which are independent in a short time are East Timor, Micronesia, Marshall and Belau which can be added. In fact, nearly all the states above are smaller than present TRNC and Cyprus Greek Domination and the number of these reach 29. Moreover these small states are known by all the world including important states of European and even the sovereignty of small islands whose population 20 thousand are accepted. But the situation in Cyprus is not like this.

Especially, in the plans prepared recently by the UN, a composed statue based on ‘*one common state*’ and ‘*two complementary-partly state*’ is foreseen (İşte Belge, 2002, p. 11). Also, it’s marked that a relationship like in “*Swiss Federate Government and Cantons*” (İşte Belge, 2002, p. 11) will be between these two political associations. According to this, there will be the case of a common state above all which have an only international identity and sovereignty, governed by representative democracy, respect to principal of legal, existing of political equality and two regional state (İşte Belge, 2002, p. 11; Annan Plan, 2002, p. 17). It’s understood from this, this common state use her power freely according to

constitutional authority as a one voice in the international arena and EU and will be equal statue. And Federal State will construct their own constitution apart from authority left for common state in the constitutional law. Small states have a conclusive that it would be great to follow *Belgium sovereignty model* (Ulus, 2003, p. 48) in the subject of common action in relationship between each other and common states, having freedom of action in framework of authority on consolidation and especially foremost of EU developing international policy. Anyhow, in both Gali and Annan's plan, it's foreseen to establish a sovereignty, invisible and common federate state on the subject of existing a '*one international, legal identity of Cyprus*'⁷ and the statue of two federate states. Basically, by saying '*invisible*' it's implied that no parts leave from *common state* or whole or part of island can not be associated with Turkey or Greece. As the same time, this also means that any side can not gain ascendancy over '*common federate state or federate statue*'.

So, Cyprus is established with her constitutional law on rule of law democracy, representative republic government, political equality, double region and equality of state. According to this, Central Government which provides action in one voice within EU and international field as sovereign as in declared in constitutional law. In other words two elements of planned federate state will be in equal statue and will use all the just in framework of constitutional law apart from authority given to Central Government by constitutional law as a sovereignty.

Thus, Central States and Federate States will respect to authority and functions of the each other and won't invade each other. With this, between the constitutional law of central state and Federate State, these won't be discussed any hierarchy.

2.2. The Method of Management and Organization of Federate State

In fact, it's not possible to understand just looking to public foundation or laws. Regardless of checking unofficial action behind official, political foundation, foundations, dynamics and its operations, relationship with each other. It's difficult, maybe impossible to reach a right, valid and supplemental opinion about real constitution of political life (Dâver, 1972, p. vi). Because, everybody has different will and wish and needs in the society. The gratification of all these wish in asked scantling, actually is impossible. So, a foundation or high authorities have to make a decision about it. Here, with statement of Lasswell, government is a foundation which shows "*whom, what, when and how to buy*" (Lasswell, 1936, p. 128-129). From this, policy is a matter of sharing (Mitchell, 1961, p. 79-89). But it would be wrong to see policy and government just a simple sharing. The high foundations of government both separate both separate social values with authority and create new values. For example, it can be said that the governments which embark new institutional action and establish public services, in fact organize '*new values*' (Dâver, 1972, p. 42) to correspond needs of public. Because, with the statement of state government it's wanted to convey organization and function of social life (Göğür, 1971, p. 138). From this, while regulating government has to bear in mind the individuals. Especially, the state authority is known to be organized in order to make people happier.

Here, the politic institution of new planned state in Cyprus is needed to make both individual and public is safety, peace and happy. So, the administrative schema, static and dynamic elements, official and nonofficial points, juridical and political view of federate state in Cyprus needs to be constructed upon fulfilling each other and complementary one self. Constitutional law needs to be constructed in the form of participating of government body, central and local authority, public administration, economical and public services of government, political and social associations and citizen to government issues.

As it's understood above, when it's said political establishment, it's generally understood '*juridical norms*' (Dâver, 1972, p. 67) that is added a specific subject and orders social activity. However, such establishment is divided into political and social as more original. Especially, political establishment can also be explained political parties and associations. Political associations explain the establishment functions and rules of political power and political administration (Eisenmann, 1950, p. 94). Here, all the rules and actions include in these points originates political establishment. These establishments create political polity; political polity creates political organization, too. So, the rules based on political polity

⁷ See... "BM Genel Sekreteri Kofi Annan'ın, 8 Kasım'da Cenevre'de Klerides ve Denktaş'a Yaptığı Sözlü Açıklamaların Tam Metni", Kıbrıs Gazetesi, 8 Kasım 2000, No:1023, s. 1.

are not to be important in written or not (Eisenmann, 1950, p. 93-96). Though, all the establishments included political, economical and social institutions in modern societies have also legal parts.

At the same time, political government in political establishment is used by an organization. So, its execution is needed to be according to legal norms. Principles of judicial in some conditions create legal rules just in regulating establishment and actions of them (Dâver, 1972, p. 68). So administrative organization of federate state in Cyprus needs to stand on 'division power' of principal powers of state. Because, the operations that power in Cyprus do and the activities of these needs as in all state can be divided into three:

1. Taking general decision (legislation)
2. Applying general decision (law enforcement)
3. The solution of issue of a dispute (judgement)

From this point, it's a fact that administrative organization of federate state needs to be separated from powers and organs according to these activities and functions. Though, separation of power does not mean separation of organs totally and certainly, it address to cooperation of power (Dâver, 1972, p. 191). In fact, there is a completion and integration between various functions of power rather than separation. So, this integration is valid for federate state planned in Cyprus.

From this, the central government in Cyprus needs to have a basic law which set authorities by judicial power and law enforcement and legislation⁸.

But in the operations of central government, it's essential to respect the political equality of Cypriot Greeks and Turks. In real, while *political equality*⁹ does not require numerical equality, it must be provided total interest in common state of Cypriot Turk and Greek and save their main interest. And, mainly the two federate states which have their own 'basic constitutional law' should govern themselves without violating basic law of central authority. So, in comprehensive treaty, federate states must be responsible and they have a construction that can not step in each other in all issues other than authority which is a clause to be responsible of central authority and functions. Anyhow, the sovereignty of both sides is a common point of all people. So, a formula can be developed on condition connecting these elements. Federate state in Cyprus must be a political establishment which is settled on a clear geography, confined and governed by a coercive authority central power and originated by two ethnic communities.

Essentially, it's not enough to convey "how this state goes" by a definition which combine all the elements of Federal Cyprus State. Because, the new federate state in Cyprus is not just a country or a communion: not a power or a political and legal organization. Even this new state is neither a total nor a synthesis of all. Apart from these, Cyprus Federal State is to be said, in this be said, in this mean, a pro-style of which just has conceptual force. As Burdeau says, a state existing as people thinks about it (Kapani, 1988, p. 36). With this side, Federal Cyprus State will be an 'icon' and 'symbol'¹⁰ which provides political integration and combination in terms of history. Basically, Cyprus Federal State is properly a symbol or legal fiction, or just a myth; it's not also denied there are some concrete and founder elements behind this abstraction. The most important of these would be power fact that while the rulers have decision which binding all people in Cyprus make rules and apply them by forceful, they all threat in the name of state. So, it's seen that two communities, live in a certain land in Cyprus, generate a society with rules in officially they set voluntarily and in common and be citizens of the 'state' in the step of society. Actually, while the forceful of rules in Cyprus is restricted to not being a citizen of this society, the law of the state carries "absolutism" (Soysal, 1997, p. 136) in each and all the citizens. Though, the absolutism of this law is expected to fulfill the modernism of "rule of law" in political and democratic construction. Moreover, being a 'rule of law' rather than a super state in political and democratic establishment will moderate absolutism gathered by state with human treatment. But, in the end, the conflict between people of two communities and existing of federate state will go on less or most. But the thing that lessens this conflict is existing of social welfare state of 'rule of law' in Cyprus. Because, the reason of established state in both in our age and Cyprus is basically based on the social duties.

⁸ See... "BM Genel Sekreteri Kofi Annan'ın, 8 Kasım'da Cenevre'de Klerides ve Denктаş'a Yaptığı Sözlü Açıklamaların Tam Metni", Kıbrıs Gazetesi, 8 Kasım 2000, No:1023, s. 1.

⁹ See... "BM Genel Sekreteri Kofi Annan'ın, 8 Kasım'da Cenevre'de Klerides ve Denктаş'a Yaptığı Sözlü Açıklamaların Tam Metni", Kıbrıs Gazetesi, 8 Kasım 2000, No:1023, s. 1.

¹⁰ See for symbols... Easton, 1968:111.

With this side, it can be said modern state system is established on 3 principles. These are; *sovereignty, equality and nation integrity* (Gönlübol, 1993, p. 49).

Actually, this social state fact which give lawful to state and believe to minimize the conflict to minimize the human freedom for social aims despite everything at the end between human and state is a problem and a escape way which is started by west world in the last quarter of 20th century. According to this problem, the solution is shown to lessen centralism of state and take decisions which are interested their selves and increase possibility of applying them (Akkurt, 1997, p. 193). From this, the view of constructing of two half autonomous as a principle of both sides on the island, living a central government that is not so powerful and connecting with an easygoing federation goes primarily.

But, in both side, there is a big conflict on the subject of what the central government and the authorized of both community will be (Alpay, 1999, p. 9). Because, Turkish side, by giving old Czechoslovakia as an example, wants that the consortium should be established with '*Turkish state in the north*' and '*Greek state in the south*' (İsmail, 1998b, p. 433) that's to say with two states. But for this, it primarily needs to know each other. So in this consortium, it's claimed that the cooperation can be established by equal attorney in number of two states.

Greek side believes that with changes of constitutional law of '*Republic of Cyprus*' and being against the idea of '*two states*' federation may come through.

However, Federal Cyprus State will be established '*compromise*' as (Denktaş, 2001, p. 4) a result of '*no way*' (Denktaş, 2001, p. 4) in parties. With this side, Federal Cyprus Republic is nearly a middle way of '*no*' and '*no way*' in parties (İşte Belge, 2002, p. 11). So, Cyprus will be a Federal State Government established with unseparatable consortium and an independent and uncommitted two equal Federal State based on one is Cypriot Turk and the other is Cypriot Greek community. Basically, this independence of federal state will bring these 3 features: These are;

1. Political mind and free speech (Representative Democracy)
2. Free entrepreneur of economic side (Liberalization)
3. Personal rights and freedom (Human Rights)¹¹

Anyway, the structure of the planned in Cyprus will base on 2 elements:

According to this in any case:

1. The safety of community on the island
2. The saving of identity of community will be provided¹².

With this side, the structure of state in Cyprus must be in a simple structure. Because, the primal one is the community and individuals on the island. So, in all conditions and circumstances, the Federal State in Cyprus is needed to be acceptable as the reason of '*social duties*' (Akkurt, 1997, p. 193). Especially, the logic stand on this view is that the state is the top and operative institution. So, the activity of the federate state in Cyprus will be provided.

CONCLUSION

However, what are the social duties of planned federal state in Cyprus oriented to her citizens or in order to fulfill social duties when the taken and given to its citizen are compared, is the state or citizen in profitable from this business? In fact, if the citizens are in profitable, it means that the state stands on the established logic. But is the state is in profitable, it means there is a big problem. Because, the profit that state get in this accounting supplement a big income to social class that settled in. So, at state-human accounting in new establishment changing of state operation in form of profitable of human than state and it's the most important thing while realizing the social aims of state by attorning, unnecessary bureaucratic authority to public, it's needed to retrocede the unnecessary authority taken from public and given to public. So, federal state in Cyprus will be strong for social aims and the border of this power will

¹¹ See Interviews with Mr. Nazim Muzefferli (1 July 1998).

¹² Also see... Proposal for A Lasting Solution in Cyprus by President Rauf Denktaş, 31 August 1998, KKTC Cumhurbaşkanlığı Arşivi, Dosya: Öneri Paketleri, Tarih: 31 Ağustos 1998; Moran, 1998, p. 206.

end when the social aim ends. On other words, state will be strong and effective for public. But, federal state won't use its (Denktaş, 1984, p. 1). So, any politic existing of a state established in Cyprus needs these four elements (Necatigil, 1996, p. 3-4):

1. In Federal Cyprus State, the citizens being free and politic community.
2. Existing land or regions that have sovereignty inside and have known borders in land.
3. Existing a constitutional law accepted by a written constitutional law on having an organization under a certain power of it.
4. The administration in Cyprus should operate in coordination.

As a result, it can be said that if a state, establish in Cyprus, is only a corporate legal person which beholden to integrity of two community on the island and the most important work of it is to perfect its perfect its existence, it needs to have a forceful and universal power to use and work each piece in the proper form.

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