

**The Sovereign Base Areas and the principle of self-determination:
A critical assessment**

**60 Years on from 1960 – A Symposium to Mark the 60th Anniversary of the
Establishment of the Republic of Cyprus (UCLan Cyprus, 18 November 2020)**

Key legal texts that will be referred to throughout the presentation:

Treaty of Establishment of the Republic of Cyprus, Article 1:

‘The territory of the Republic of Cyprus shall comprise the Island of Cyprus, together with the islands lying off its coast, with the exception of the two areas defined in Annex A to this Treaty, which areas shall *remain* under the sovereignty of the United Kingdom.’ (my emphasis)

Cyprus Act 1960, Section 2(1):

‘The Republic of Cyprus shall comprise the entirety of the Island of Cyprus with the exception of the two areas defined as mentioned in the following subsection, and—
(a) nothing in the foregoing section shall affect Her Majesty’s sovereignty or jurisdiction over those areas’

Antoniades and others v. The Administrator of the Sovereign Base Areas (Judicial Review Claim No. 2/2013) [SBA Court Case]

Aziz v. The Queen (Criminal Appeal 5 of 1998) [SBA Court Case]

R (on the application of Tag Eldin Ramadan Bashir and others) v Secretary of State for the Home Department [2018] UKSC 45 [UK Supreme Court case], para. 69:

The Cyprus Act 1960 did not alter the status of the SBAs, but merely excluded them from the transfer of territory to the new Republic of Cyprus. [...] In the case of the SBAs, the only change which occurred in 1960 was that whereas they had previously been part of the UK-dependent territory of Cyprus, they were thereafter the whole of it.

Declaration by her Majesty’s Government Regarding the Administration of the Sovereign Base Areas (Appendix O of the Treaty of Establishment), Article 2(ii):

‘Her Majesty’s Government further declare that their intention [...] (ii) Not to set up and administer “colonies”.’

Graham Thomas Preece v. Estia Asfalistiki (1991) 1 CLR 568 [RoC Supreme Court Case]

‘there is no doubt that the Sovereign Base Areas are neither a state, nor a colony, but areas on the island of Cyprus over which the United Kingdom during the establishment of the Republic and for military and defence purposes only, retained its sovereignty, subject to the restrictions referred to in the above multilateral and bilateral documents [i.e. the Treaty of Establishment and Appendix O].’ (my translation)

Arrangement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Cyprus Relating to the Regulation of Development in the Sovereign Base Areas, signed on 15 January 2014 (Non-Military

Development Arrangement), available at https://sbaadministration.org/images/nmd/NMD_signed.pdf, Section 1:

- (a) The competent authorities of the Republic of Cyprus, in consultation with and *subject to the consent of the competent authorities of the SBA administration* will define planning zones and relevant planning policies for the areas mentioned in Section 1 of Annex A of the Treaty of Establishment, with the exception of land designated as military sites [...] (my emphasis)
- (b) [...]
- (c) The Government of the Republic of Cyprus may, *in exceptional cases of public interest*, request the inclusion in the planning zones and relevant planning policies as provided for in Section 1(a) of land which is exempted therefrom and the Government of the United Kingdom will *give sympathetic consideration to this request*, taking into consideration its military requirements. (my emphasis)

Advisory Opinion on the *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965* (ICJ GL No 169, ICGJ 534 (ICJ 2019), para. 152-153 and 160

‘The right to self-determination ‘is defined by reference to the entirety of a non-self governing territory [...] States have consistently emphasized that respect for the territorial integrity of a non-self-governing territory is a key element of the exercise of the right to self-determination under international law. [...] It follows that any detachment by the administering Power of part of a non-self-governing territory, unless based on the freely expressed and genuine will of the people of the territory concerned, is contrary to the right to self-determination.’

Protocol No 3 of the Treaty of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union [2003] OJ L236

Protocol Relating to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, attached to the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Committee (19 October 2019)

Press Release ‘Regulating Development in Sovereign Base Areas: Joint UK-Cyprus Statement’ (9 June 2020), available at <https://www.gov.uk/government/news/joint-uk-cyprus-statement-on-the-sovereign-base-areas>

Vienna Convention on the Law of Treaties 1969, Article 53:

‘A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law.’

Vienna Convention on the Law of Treaties 1969, Article 64:

‘If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.’

Nasia Hadjigeorgiou
Assistant Professor of Transitional Justice and Human Rights, UCLan Cyprus