

disrepute or which may tend to impair the confidence of the public in the public service;

h) to show propriety, politeness and truthfulness.

- 2) The duties of a public officer shall be the usual duties of his/her office and any other relative duties which may be assigned to him/her.

The officer has the right to perform his/her duties.

Section 64 Right to form and to join trade unions

The right to form and to join trade unions and the unfettered execution of all rights related thereto are safeguarded to all public officers.

Section 65 Absence without leave

Any officer who absents himself from duty without leave or who wilfully refuses or omits to perform his/her duties becomes liable to disciplinary proceedings.

Section 66 Freedom of expression

- 1) Subject to subsection (2) public officers are free to express, either privately or in public, by speeches, lectures, announcements, studies or discourses, their opinion on matters related with science, art, religion or on any matter of general interest.
- 2) Public officers are not allowed to publish or broadcast on TV or radio or any other news media any subject having to do with their duties without the prior permission of the appropriate authority.
- 3) No public officer shall receive payment for any publication or broadcast without the approval of the appropriate authority.

Section 67 Work environment

Public officers have the right to be provided with hygienic and safe working areas.

Section 68 Private employment and interest in companies

- 1) Public officers are obliged to offer their services at any such time as necessitated by the requirements of the Service.
- 2) No public officer shall practice any profession or trade or employ himself in any occupation or business other than his/her duties in the public service:

Provided that in exceptional circumstances and on the recommendation of the appropriate authority, the member of the Presidential Council having, for the time being, responsibility in respect of financial matters, may grant

permission to a public officer for part-time employment or engagement on such conditions as s/he may impose under the circumstances, so long as such employment or engagement shall not interfere with the efficient performance of the public duties of the officer.

3) No public officer shall:

a) participate in the administration of any a company or a partnership or any other undertaking of a private nature;

b) acquire or hold any share or other interest in any non-public company or partnership or any other undertaking of a private nature,

except only with the approval of the member of the Presidential Council having, for the time being, responsibility in respect of financial matters, which may be granted on such conditions as specified by him/her, provided that the granting of such an approval is not incompatible with the performance of the official duties of the public officer concerned.

4) Without prejudice to subsection (3), the member of the Presidential Council having, for the time being, responsibility in respect of financial matters, shall grant approval to a public officer, under subsection (3), in the following instances:

a) where the approval will benefit the public interest; or

b) where the interest of the public officer in the company or partnership or other undertaking of a private nature has come about as a result of an inheritance or marriage and the acquisition of shares will not interfere with the performance of his/her duties.

5) A public officer is allowed to acquire shares of public companies, the number of which must not exceed a percentage of the share capital to be determined by the member of the Presidential Council having, for the time being, responsibility in respect of financial matters.

6) Every public officer shall, upon being appointed to the public service and thereafter every year, notify the member of the Presidential Council having, for the time being, responsibility in respect of financial matters, of any investment or interest that s/he may have in any company, partnership or other undertaking of a private nature, the activities of which are directly or indirectly associated with his/her duties.

Section 69 Acquisition of property, etc.

1) No public officer shall, by improperly taking advantage of his/her position, acquire either directly or indirectly any movable or immovable property or hold such property where his/her personal interests in it are in conflict with his/her public duties.

2) Whenever a reasonable suspicion arises as to the source of a public officer's financial resources an inquiry may be made in the prescribed manner to ascertain the source of such resources. If, as a result of such an inquiry, it is established that such resources have come into his/her possession under circumstances constituting a criminal or a disciplinary

offence, the appropriate authority proceeds to the taking of suitable measures.

Section 70 Official information, evidence and documents

- 1) All information written or oral, which has come to the knowledge of a public officer during the course of the performance of his/her duties, shall be confidential and shall not be communicated to any person except for the proper performance of official duties or on the express direction of the appropriate authority.
- 2) Without prejudice to the provisions of any other law, when a public officer is served with a summons to give evidence on a matter relating to the performance of his/her duties or to produce an official document in his/her custody, s/he shall refer the matter to the appropriate authority for determination whether the giving of such evidence or the production of such document would be contrary to the public interest, in which case, the appropriate authority shall, after consulting the Attorney-General, determine the matter accordingly.
- 3) Except for the proper performance of official duty, no officer shall, without the permission of the appropriate authority, give technical or professional advice to any person.

Section 71 Bankruptcy

- 1) A public officer against whom proceedings in bankruptcy have been taken, shall forthwith inform his/her Head of department accordingly.
- 2) A public officer shall, on his/her adjudication as a bankrupt or on a receiving order being made against him/her or on his/her entering into composition with his/her creditors, be interdicted under the provisions of this Law and shall not be reinstated unless the Commission judges, that on the basis of the Court proceedings or after examining the facts, and after hearing the public officer, that his/her financial difficulties have been occasioned by unavoidable misfortune and are not due to extravagance or inexcusable improvidence, or unless there are extenuating circumstances.

Section 72 Gifts

- 1) No public officer shall, either directly or indirectly, receive or give any present whether in the form of money, other goods, free trips or other personal benefits, other than ordinary gifts from or to personal friends:

Provided that a public officer may on his/her retirement from the service accept a present in the prescribed manner:

Provided further that this provision may be relaxed by the Presidential Council in specified cases where the Presidential Council considers that it

would be undesirable or contrary to public interest for the present to be refused.

- 2) Where it would be undesirable in the public interest to refuse a present, the public officer may accept the present but shall immediately report the matter to his/her Head of department whereupon the present shall be dealt with in the prescribed manner.
- 3) A public officer shall immediately report to his/her Head of department the offer to him/her of a present made against the provisions of this section and the present shall be dealt with in the prescribed manner.

Section 73 Bribes

If a monetary or other present is offered or given to an officer in consideration of a service rendered or to be rendered by him/her in his/her official capacity, the officer must immediately inform his/her Head of department.

Section 74 Civil responsibility for loss or damage

- 1) A public officer shall be responsible to the federal government for any loss or damage caused by a thoughtless, unwise or dangerous act or omission during the performance of his/her duties and may be surcharged with the full amount or part of such loss or damage, if the member of the Presidential Council having, for the time being, responsibility in respect of financial matters so decides, after taking the views of the Attorney-General and of the Auditor-General.
- 2) The public officer shall also be responsible to the federal government for compensations paid by the federal government to third parties for thoughtless, unwise or dangerous acts or omissions on his/her part, during the performance of his/her duties.
- 3) The claim for reimbursement made by the federal government against the public officers in the cases provided for by the above-mentioned subsections ceases at the lapse of three years. In the cases of subsection (1) the period of three years commences when the damage has been caused, and in the cases of subsection (2) when the federal government has paid the compensation.

Section 75 Political rights

- 1) Subject to the provisions of this Law, every public officer has the right to express freely his/her political convictions and his/her political opinions and beliefs, either in public or in private, but not during his/her working hours.
- 2) A public officer shall be allowed to be a simple member of a political party of his/her own choice.

- 3) Every public officer has the right to attend political rallies or other such meetings.
- 4) No public officer shall get involved in the organisation of public meetings or other activities of a political nature or which aim at promoting the political aspirations of any person or party or to make speeches at such meetings.
- 5) It is forbidden for a public officer, using his/her position or influence, to act in such a way as to allow the entry of any person into a political party or organisation of a political nature or sway any person towards a specific political party or politician.
- 6) A public officer who wishes to place his/her candidature for a position which, if attained, will be incompatible with that of a public officer, shall take leave of absence for a period of forty days before the elections and, furthermore, on his/her request, may be granted leave for a period of one month after the announcement of the elections results.
- 7) The period of leave of absence before the elections day may be extended up to forty five days, if the officer so wishes.
- 8) The leave of absence granted to the officer may be either unpaid not for reasons of public interest or regular leave of absence s/he is entitled to, according to his/her choice.
- 9) The provisions of subsections (2) and (4) shall not apply during the period of leave taken pursuant to subsections (6) and (7).
- 10) In case of a successful outcome at the elections the public officer shall retire automatically from his/her office, in which case the provisions of the Pensions legislation for the time being in force with regard to the retirement benefits if elected for the benefit of the public interest, if elected to the office of a member of the Presidential Council or of a Member of Parliament or of the legislature of either constituent state, or of voluntary retirement, or if s/he has been elected to another position, are to be implemented. The service status of public officers returning to their office shall not be affected by their activities and expressed opinions during the pre-election campaign.

Part VII. DISCIPLINARY CODE

Section 76 Disciplinary offences

- 1) A public officer is liable to disciplinary proceedings if –
 - a) s/he commits an offence of dishonesty or involving moral turpitude;
 - b) s/he commits an act or omission amounting to a contravention of any of the duties or obligations of a public officer.
- 2) For the purposes of this section "duties or obligations of a public officer" includes any duty or obligation imposed on a public officer under this Law

or any other law or Regulations in force or under any public instrument made thereunder or under any order or direction issued.

Section 77 *No public officer to be twice proceeded against for the same offence*

No disciplinary proceedings may be taken against a public officer in respect of the same disciplinary offence of which s/he has been found guilty or not guilty.

Section 78 *Only one disciplinary punishment for each disciplinary offence*

Not more than one disciplinary punishment may be imposed in respect of a disciplinary offence:

Provided that a reprimand or severe reprimand may be imposed concurrently with every punishment specified in paragraphs (c), (d) or (e) of subsection (1) of section 82.

Section 79 *Termination of disciplinary responsibility*

No disciplinary proceedings shall be brought against a person who has in any way ceased to be a public officer, though any disciplinary proceedings that may have been initiated may continue even after the dissolution of the relationship with public office, except in the case of death.

Section 80 *Criminal proceedings*

If criminal proceedings are instituted against a public officer, no disciplinary proceedings shall be taken or continued against such officer upon any grounds involved in the criminal proceedings until the criminal proceedings have been finally disposed of.

Section 81 *Disciplinary proceedings following criminal proceedings*

Where proceedings have been taken against a public officer for a criminal offence and the officer has not been found guilty thereof, no disciplinary proceedings can be taken against him/her on the same charge, but proceedings may be taken against him/her for a disciplinary offence arising out of his/her conduct which, though connected with the criminal case, yet does not raise the same issue as that of the charge in the criminal proceedings.

Section 82 *Disciplinary punishments*

- 1) The following disciplinary punishments may be imposed under the provisions of this Law:

- a) reprimand;
 - b) severe reprimand;
 - c) disciplinary transfer;
 - d) stoppage of annual increment;
 - e) deferment of annual increment;
 - f) fine not exceeding the emoluments of three months;
 - g) reduction in salary scale;
 - h) reduction in rank;
 - i) compulsory retirement; and
 - j) dismissal.
- 2) A reprimand shall be made orally and a note thereof shall be made in the officer's Personal File.
- 3) A severe reprimand shall be in writing and a copy thereof shall be delivered to the public officer and another copy placed in his/her Personal File.
- 4) Stoppage of increment means non-payment for a specified period of an increment otherwise due, without alteration of the incremental date.
- 5) Deferment of increment means postponement of the date on which the next increment is due, with corresponding postponements in subsequent years.
- 6) On compulsory retirement from a pensionable office, the matter of retirement benefits shall be submitted by the member of the Presidential Council having, for the time being, responsibility in respect of financial matters to the Presidential Council, which shall decide the granting of retirement benefits as well as the beginning of time of their payment, considering the circumstances of every case:
- Provided that the retirement benefits which are about to be granted shall not be less than those which would have been granted to the officer if the punishment of dismissal had been imposed to him/her.
- 7) Dismissal entails the forfeiture of all retirement benefits:
- Provided that pension is paid to the wife of the public officer dismissed and to his/her children, if any, as if s/he had passed away on the date of his/her dismissal, to be calculated on the actual number of years in service.
- 8) When a public officer is punished with dismissal, compulsory retirement or reduction in rank, this fact is published in the Gazette.

Section 83 Deletion of disciplinary punishments

- 1) Punishment by reprimand three years after its imposition, punishment by severe reprimand five years after its imposition and the remaining

punishments, with the exception of compulsory retirement and dismissal, ten years after their imposition, are deleted.

- 2) Deleted punishments are withdrawn from the Personal File of the public officer and thereafter shall not constitute a basis to judge him/her.

Section 84 *Taking of disciplinary action - Inquiry into the commission of, and dealing with, disciplinary offences*

- 1) The Commission shall not proceed to take disciplinary action against any public officer unless a written proposal of the appropriate authority is received.
- 2) If it is reported to or is brought to the attention of the appropriate authority that a public officer may have committed a disciplinary offence, the appropriate authority should forthwith –

- a) if the offence is one of those specified in Part I of Annex I, cause a departmental inquiry to be made in such a manner as the appropriate authority may specify and proceed as provided in section 85:

Provided that, if the appropriate authority is of opinion that, owing to the seriousness of the offence or the circumstances under which it was committed, it should entail a more serious punishment, it may refer the matter to the Commission, in which case it shall proceed under paragraph (b);

- b) in any other case, cause an investigation to be made in the prescribed manner and then proceed as provided in section 86:

Provided that until Regulations are made prescribing the manner of investigation, the Regulations set out in Part I of the Annex 2 apply.

Section 85 *Power of appropriate authority to deal summarily with certain offences*

- 1) The appropriate authority shall have power to deal summarily with any disciplinary offences specified in Part I of Annex I and to impose any of the punishments appearing in Part II of such Annex.
- 2) When, as a result of a departmental inquiry carried out in accordance with paragraph (a) of subsection (2) of section 84, it appears to the appropriate authority that a disciplinary offence has been committed which can be dealt with summarily, then copies of witnesses statements and of any other relevant documents available shall be given to the public officer concerned and shall also be given the opportunity of being heard.
- 3) After hearing the officer concerned, the appropriate authority may impose any of the punishments set out in Part II of Annex I having previously heard him/her as to the extent of the punishment to be imposed.
- 4) Without prejudice to the general power of delegation of the appropriate authority, the appropriate authority may delegate any of the powers under

this section to the Head of department concerned or to any other senior officer who shall be of a higher rank than the public officer concerned.

Section 86 Proceedings before the Commission

- 1) When an investigation carried out under paragraph (b) of subsection (2) of section 84 is completed and the commission of a disciplinary offence is disclosed, the appropriate authority shall forthwith refer the matter to the Commission and shall forward to it --

- a) the report of the investigation;
- b) the charge to be brought signed by the appropriate authority; and
- c) the evidence in support thereof.

- 2) Disciplinary proceedings before the Commission shall commence by the preferment of the charge sent by the appropriate authority, as in subsection (1) provided. Within such period as may be prescribed and until such period is prescribed within two weeks of the date of receipt by it of the charge, the Commission shall cause summons in the prescribed form to be issued to the officer concerned and served upon him/her in the prescribed manner:

Provided that, until the form and the manner of service of summons are prescribed, the form of summons set out in Part II of Annex 2 may be used and the manner of service therein provided may be followed.

- 3) A public officer facing a disciplinary prosecution is entitled to know of the case against him/her.
- 4) Copies of witnesses statements and of any other relevant documents are given to a public officer facing a disciplinary prosecution.
- 5) The hearing of the case before the Commission shall be conducted and completed in the prescribed manner:

Provided that, until Regulations are made in this respect, the Regulations set out in Part III of Annex 2 shall apply.

- 6) A public officer facing a disciplinary prosecution is given the opportunity of being heard before the establishment of guilt as well as before the imposition of the punishment.
- 7) In any proceedings before the Commission under this Part the officer concerned may be represented by counsel of his/her own choice.

Section 87 Conviction for certain offences

- 1) Where a public officer has been convicted of an offence involving dishonesty or moral turpitude and the conviction has either been upheld on appeal or no appeal has been made, the Commission shall as expeditiously as possible obtain a copy of the notes of the proceedings of

the Court which tried the case and of the Court, if any, to which an appeal was made.

- 2) The Commission shall, within such period as may be prescribed, and until such period is prescribed within two weeks of the receipt of the copy of the notes of the proceedings as in subsection (1), seek the views of the Attorney-General on whether the offence is one involving dishonesty or moral turpitude. The Attorney-General shall advise thereon as expeditiously as possible and, in the event of an advice in the affirmative, the Commission, without any further investigation and after giving the officer concerned an opportunity of being heard, shall impose such disciplinary punishment as may be justified in the circumstances.
- 3) An officer convicted of such a criminal offence shall not receive any part of his/her emoluments as from the date of such conviction, pending completion of consideration of his/her case by the Commission.

Section 88 *Interdiction*

- 1) When an investigation of a disciplinary offence is directed under the provisions of paragraph (b) of section 84 against a public officer or on the commencement of a police investigation with the object of criminal proceedings against him/her, the Commission may, if the public interest so requires, interdict the public officer from duty pending the investigation:

Provided that the period of interdiction of the officer shall not exceed three months, but, for serious considerations, it can be extended for another three months.

- 2) If at the end of the investigation the criminal or disciplinary prosecution of the public officer is decided, the Commission may, if the public interest so requires, interdict the officer from duty until the final disposal of the case.
- 3) Notice of such interdiction shall be given in writing to the officer as soon as possible. The powers, privileges and benefits vested in the officer shall remain in abeyance during the period the interdiction continues:

Provided that the Commission shall allow the officer to receive such portion of the emoluments of his/her office, not being less than one half, as the Commission may think fit.

- 4) If the officer is acquitted or if as a result of the investigation there is no case against him/her, the interdiction shall come to an end and the officer shall be entitled to the full amount of the emoluments, which s/he would have received if s/he had not been interdicted. If s/he is found guilty, the Commission shall decide whether any portion of his/her emoluments will be returned to him/her.

Section 89 *Offences*

Any person who, being summoned to appear before the Commission, fails to attend at the time and place mentioned in the summons, who refuses to

answer any question that is lawfully put to him/her during the disciplinary hearings, shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one thousand pounds.

Part VIII. MISCELLANEOUS

Section 90 Regulations

- 1) The Presidential Council may make Regulations, to be published in the Gazette, for the better carrying into effect of the provisions of this Law and for regulating generally any matter concerning the Commission, the public service and public officers.
- 2) Without prejudice to the generality of subsection (1), any such Regulations may provide for all or any of the following matters: -
 - a) prescribing anything other than a matter relating to judicial proceedings, which under the provisions of this Law is required or permitted to be prescribed;
 - b) forms and fees for any matter required or permitted by or under this Law, or incidental to the provisions thereof.
 - c) hours of work and holidays.
- 3) Regulations made in accordance with this section may provide for retrospective effect.

Section 91 Regulations set out in the Annexes

- 1) The Regulations set out in Annexes I and II shall be deemed to be Regulations under section 85 and 84(2)(b), 86(2), 86(5) respectively.
- 2) The Presidential Council may, at any time, amend, repeal or substitute in whole or in part the Regulations set out in the Annexes hereto.

ANNEX I

PART I

(Regulations under section 85 of the Law)

Disciplinary offences by a public officer which can be summarily dealt with by the appropriate authority:

1. Leaving his/her place of work without permission of his/her superior officer.
2. Delay in attending his/her place or work.
3. Negligence, carelessness, slackness or inertness in the performance of his/her duties.
4. Improper behaviour towards his/her superior officers and colleagues and towards members of the public.
5. Failure or refusal to comply with any direction or instruction given to him/her by a superior officer.
6. Failure or refusal to perform the duties of his/her office.

PART II

Punishments that can be imposed by the appropriate authority:

1. Reprimand.
2. Severe reprimand.
3. Stoppage of increment for a period not exceeding six months.

ANNEX 2

PART I

(Regulations under section 84(2)(b))

Regulations relating to the investigation of disciplinary offences:

1. The appropriate authority shall, as expeditiously as possible, nominate one or more officers of its Department or Office (in this Part referred to as "the investigating officer") to conduct the investigation. The investigating officer shall be a senior officer who shall be of a higher rank than the officer concerned:

Provided that if in any case the appropriate authority considers that it would not be possible, practicable or applicable to nominate an investigating officer from its Department or Office, it shall refer the matter to the Presidential Council which shall nominate a suitable officer either from the Department or the Office of the appropriate authority, provided that such officer shall not be of a lower rank than that of the officer accused, or from another Department or Office to conduct the investigation.

2. The investigation shall be carried out as expeditiously as possible and must be completed not later than thirty days from the date the investigation was ordered.
3. In carrying out an investigation, the investigating officer shall have power to hear any witnesses or to obtain written statements from any person who may have knowledge of any of the facts of the case and any such person shall give all information within his/her knowledge and shall sign any statement so given, after its having been read out to him/her.
4. The officer concerned shall be entitled to know the case against him/her, shall be provided with a copy of the witnesses statements and of any other relative documents and shall be given an opportunity of being heard.
5. After the completion of the investigation, the investigating officer shall forthwith report his/her conclusion to the appropriate authority giving full reasons in support thereof and submitting all relevant documents.
6. On receiving the report of the investigating officer, the appropriate authority shall forthwith refer it, with all documents submitted, to the Attorney-General, together with its views thereon for his/her advice.
7. The Attorney-General shall, with all reasonable speed, consider the matter and advise the appropriate authority whether a charge may be brought against the officer concerned. In case of an advice to the affirmative, then s/he shall draft the charge.

8. On receiving the charge drafted by the Attorney-General, the appropriate authority shall sign it and transmit it to the Chairman of the Commission with all documents submitted to the Attorney-General.

PART II

(Regulations under section 86(2))

Form of Summons

You are hereby summoned to appear before the Public Service Commission at its office at Nicosia on the day of, 200., at the hour of in the noon for the hearing of a disciplinary charge preferred against you that

(State shortly the offence or offences)

2. If you desire to call witnesses to testify or to produce evidence before the Commission, you should make such arrangements as are necessary to secure the attendance of those witnesses or the production of that evidence accordingly.
3. If you fail to appear before the Commission at the above-mentioned place and time, the Commission may either require your personal attendance or proceed to hear the case in your absence.

Dated the day of, 200....

(Signed)

Chairman of the Public Service Commission.

..... / Summons

Service of Summons

A summons shall be served upon the officer through the Head of his/her department who shall cause the summons to be handed over to him/her and an acknowledgment of its receipt to be signed by the officer on the duplicate form of the summons, which shall then be returned to the Commission.

PART III

(Regulations under section 86(5))

Hearing of a case

1. If the officer appears on the date fixed by the Commission for the hearing of the case, the hearing thereof shall proceed as in the Law and in this Part provided.
2. If the officer does not appear on such date, then, on proof of service of the summons on him/her, the hearing of the case shall proceed in his/her absence:
Provided that the Commission may demand the personal attendance of the officer.
3. The hearing of the case shall proceed, as nearly as may be, in the same manner as the hearing of a criminal case in a summary trial.
4. The Commission shall have power -
 - (a) to summon witnesses and require their attendance and that of the officer as in summary trials;
 - (b) to require production of any document relevant to the charge;
 - (c) to admit any evidence, whether written or oral, even if inadmissible in civil or criminal proceedings;
 - (d) to adjourn the hearing from time to time, provided that the hearing proceeds as expeditiously as possible.
5. A record of the proceedings at the hearing shall be taken.
6. The Commission may by its judgment either find the officer guilty of all or any of the offences charged and impose upon him/her any of the disciplinary punishments which the circumstances of the case would

justify, having first heard him/her as to the determination of sentence, or acquit the officer.

7. Any judgment of the Commission shall give reasons for the decision taken and shall be signed by the Chairman. Copy of such judgment shall be forwarded to the appropriate authority concerned and another copy shall be given to the officer free of any charge.

ATTACHMENT 23: FEDERAL LAW ON OFFICIAL LANGUAGES

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 June 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 July 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

ATTACHMENT 24: FEDERAL LAW ON FEDERAL POLICE AND JOINT INVESTIGATION AGENCY

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

Article 1 Composition

1. The Head of the federal police and the Deputy Head of the federal police and the Head of the Joint Investigation Agency and the Deputy Head of the Joint Investigation Agency shall not hail from the same constituent state.
2. All units of the federal police and the Joint Investigation Agency shall be composed of an equal number of personnel hailing from each constituent state.

**ATTACHMENT 25: FEDERAL LAW ON LEGISLATIVE PROCEDURE AND
ON PROCEDURE FOR AMENDMENTS OF THE
CONSTITUTION**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement. Text should include, *inter alia*, regulation of procedure for consultation of constituent state governments and other interested sectors of society.]

Article 1 Vacancy in the Presidential Council

In the event of a vacancy in the Council, a replacement shall be elected by Parliament by special majority for the remainder of the term of office. The replacement shall hail from the same constituent state and the same political party as the member being replaced.

Article 2 Conciliation Mechanism

[insert provision in conformity with Article 25.3 of the Constitution]

ATTACHMENT 26: FEDERAL LAW ON ADMINISTRATION OF JUSTICE

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

Article 1 Judges of the Supreme Court

1. The Supreme Court judges shall not hold any other public office in the federal government or either constituent state.
2. The judges shall not serve beyond their 75th birthday.
3. The Presidential Council shall appoint the judges from among the candidates listed by the Judiciary Board, three judges hailing from each of the constituent states and three non-Cypriot judges who shall not be citizens of Greece, Turkey or the United Kingdom.
4. In case of a vacancy, the Presidential Council shall appoint a replacement for the remainder of the term of office upon suggestion of the Judiciary Board, without altering the composition of the Court as prescribed in this Article.

Article 2 The President of the Supreme Court

The Supreme Court Judges shall elect from among their number a President of the Supreme Court for a renewable three-year term of office.

Article 3 Seniority of judges

The President of the Supreme Court shall be considered the most senior Supreme Court judge. Among the other judges, seniority shall be determined firstly by time served in office and by age in case of equal time served.

Article 4 Decisions of the Supreme Court

1. In accordance with the Constitution, the Supreme Court shall strive to reach decisions by consensus and issue joint judgments of the court.
2. In the absence of consensus, a majority of the Cypriot judges may take the decision of the court and issue a joint judgment.

3. In the absence of a majority among the Cypriot judges, the non-Cypriot judges, acting together and speaking with one voice, shall participate in the decision of the court.

Article 5 *Judiciary Board*

1. The Judiciary Board shall comprise the three most senior judges of the Supreme Court of Cyprus, each being the most senior of the group of judges from each of the constituent states and the non-Cypriot judges respectively; the federal Attorney-General and Deputy Attorney-General; and the Attorney-General, the head of the highest court and the President of the Bar Association of each constituent state.
2. If the most senior judge from any group in the transitional Supreme Court is also the head of the highest constituent state court, the second most senior judge from the relevant group shall take his/her place on the Judiciary Board.
3. The Judiciary Board shall decide on a list of names by a two-thirds majority.

Article 6 *Partial periodic renewal of the Supreme Court*

1. To ensure partial periodic renewal of the Supreme Court, the terms of office of the original members shall be as follows:
 - a. Three years for one judge from each constituent state as well as one non-Cypriot judge;
 - b. Six years for one judge from each constituent state as well as one non-Cypriot judge; and
 - c. Nine years for one judge from each constituent state as well as one non-Cypriot judge.
2. If the judges in each group cannot agree among themselves who shall hold each term of office, a lot shall be drawn among each group of judges.

Article 7 *Transitional Supreme Court*

The provisional Judiciary Board shall be composed of the Attorney-General, the head of the highest court and the President of the Bar Association of each constituent state.

1. The Cypriot judges may maintain any functions as constituent state judges during their fifteen-month term of office on the transitional Supreme Court to the extent that their tasks at the Supreme Court shall allow it. They shall give priority to their tasks as judges of the Supreme Court of Cyprus.

2. The non-Cypriot judges and the non-Cypriot registrar on the transitional Supreme Court shall be remunerated like the judges and the registrar of the International Court of Justice.

Article 8 *Right of Appeal to the Supreme Court*

Any individual shall have the right of appeal to the Supreme Court in all disputes on matters which involve the interpretation or an alleged violation of the Foundation Agreement, the Constitution of the United Cyprus Republic, federal laws (including federal administrative decisions) or treaties binding upon the United Cyprus Republic.

ATTACHMENT 27: FEDERAL LAWS ON FEDERAL OFFENCES

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 October 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 November 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.]

Law 1: Federal Law on Terrorism

[insert text; i.e. criminal code on terrorism]

Law 2: Federal Law on Drug Trafficking

[insert text; i.e. drug trafficking, money laundering, organised crime and offences against federal laws.]

Law 3: Federal Law on the Prevention and Suppression of Money Laundering Activities

ATTACHMENT 28: FEDERAL LAW ON IMPEACHMENT

[insert agreed text no later than 25 March 2003. If agreement is not reached by that date, the constituent states shall, *ad interim*, exercise the functions governed by this law, upon entry into force of the Foundation Agreement. A committee established by the Co-Presidents shall present a common draft of this law for approval by the transitional federal Parliament no later than 1 August 2003. The transitional Parliament shall resolve any outstanding issues regarding the law and adopt it no later than 1 September 2003. Should the law not be adopted by the transitional Parliament by the specified date, the Supreme Court shall decide on the unresolved issues giving due regard to the positions of both constituents and promulgate the law within six weeks of that date.

The text shall include provisions that cases alleging impeachment shall be referred to the Supreme Court; the Supreme Court shall determine the appropriate punishment]

ANNEX IV: COOPERATION AGREEMENTS BETWEEN THE FEDERAL GOVERNMENT AND THE CONSTITUENT STATES

The attachments to this Annex shall be Cooperation Agreements between the federal government and the constituent states upon entry into force of the Foundation Agreement. These agreements may be amended by agreement of the federal government and both constituent states.

**ATTACHMENT 1: COOPERATION AGREEMENT ON EXTERNAL
RELATIONS**

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.]

**ATTACHMENT 2: COOPERATION AGREEMENT ON EUROPEAN UNION
AFFAIRS**

[see separate document]

Foundation Agreement Annex IV, Attachment 2

Cooperation Agreement on European Union

The text of this Law is as provisionally agreed (subject to agreement of the political leaders) in the Technical Committee on Laws, save for highlighted parts which represent the suggestions of the United Nations to resolve outstanding issues.

Article 1 *Preliminary provisions*

In this Agreement -

"Agreement" refers to the present Cooperation Agreement between the federal government and the constituent states on European Union Affairs

"Constitution" means the Constitution of the United Cyprus Republic;

"Group" means the Coordination Group;

"IMCEUA" means the Inter-Ministerial Committee on European Union Affairs;

"Council" means the Council of the European Union;

"European Union Treaties" means the Treaty on European Union and the Treaties establishing the European Communities in their consolidated version, as well as the Protocols that are annexed thereto; and

"European Union Courts" means the Court of Justice and the Court of First Instance of the European Communities.

Article 2 *Scope of Agreement*

This Agreement regulates policy formulation, decision-making, representation and legal actions concerning European Union affairs which fall exclusively or predominantly into an area of competence of the constituent states, while providing for consultation in the areas of competence of the federal government.

Article 3 *General Rules*

- 1) This Agreement is concluded by virtue of Article 2.2 of the Foundation Agreement and Articles 16.2 and 19.6 of the Constitution.
- 2) This Agreement is made in full respect of the Foundation Agreement, the Constitution, the European Union Treaties as well as the European Union *acquis* in general.
- 3) The federal government and the constituent states shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations of the United Cyprus Republic arising out of European Union membership and shall abstain from any measure which could impede the full and timely fulfilment of these obligations or could jeopardize the capacity of Cyprus as a whole to effectively promote its interests in the European Union.

Article 4 *Duty to inform*

The federal government shall inform the constituent states without delay on all issues relating to European Union matters. This duty shall include the transmission of:

- a) Documents, reports, and notices of the institutions and organs of the European Union;
- b) Documents, reports, and notices on informal meetings at ministerial level;
- c) Documents and information on cases pending before the Court of Justice and the Court of First Instance of the European Communities where Cyprus is one of the parties, as well as the judgments rendered by the Court in such cases;
- d) Reports of the Permanent Representation of the United Cyprus Republic to the European Union; and
- e) Documents, reports and notices communicated by the federal government to the institutions and organs of the European Union.

Article 5 *Decision-making*

- 1) There shall be established a Coordination Group composed of a representative of the two Members of the Presidential Council in charge of Foreign Affairs and European Union Affairs, and a representative of the government of each constituent state, selected according to the Group's agenda.
- 2) A member from the Permanent Representation of Cyprus to the European Union may participate in the work of the Group. Such member shall not have the right to vote.
- 3) Members of the Group may be assisted by officers of any Department or service of the federal or constituent state governments concerned with an item on the Group's agenda. Such officers shall not have the right to vote.
- 4) The Department of European Union Affairs shall chair and provide the secretariat of the meetings.
- 5) Meetings of the Group shall be carried out in principle once a week and at any rate before every session of the Council across all areas of responsibility and jurisdiction, regardless of the specific area of competence concerned.
- 6) The Minister of European Union Affairs or his/her representative shall refer to the Group without delay any matter which predominantly or exclusively falls within the competence of the constituent states, when so requested by the government of a constituent state. The Group shall also decide upon any dispute regarding whether a matter falls exclusively or predominantly within the competence of the constituent states.

- 7) In such matters, the Group shall consider opinions of the constituent states given in due time in its decision-making. In case of consistent opinion by both constituent states given in due time in matters referred to in paragraph 6, this opinion shall determine the position of the United Cyprus Republic in negotiations and voting.
- 8) Upon confirming that the constituent states have received the relevant information, if one of the constituent states does not reply in due time, the opinion of the constituent state that has replied shall determine the position of the United Cyprus Republic. If both constituent states convey their position that they shall not reply to the policy at issue or fail to convey a position, the Minister of European Union Affairs will determine the position of the United Cyprus Republic.
- 9) In case of persistent inconsistencies between the positions of the constituent states in matters referred to in paragraph 6, a decision with respect to the position of Cyprus shall be taken by the Group.
- 10) If the coordination carried out by the Group as specified in paragraphs 6 to 9 fails to produce agreement by consensus, the Group shall refer the matter to the Secretariat of the IMCEUA.
- 11) The IMCEUA shall be composed of four representatives. In addition to the Ministers for European Union Affairs and External Relations, the IMCEUA shall comprise one representative from each constituent state. The IMCEUA shall strive to reach its decisions by consensus. If consensus cannot be achieved, decisions shall be reached by special majority which will include at least one member hailing from each constituent state. The decisions of the IMCEUA shall be final and determine the position of the United Cyprus Republic before the European Union.
- 12) The federal government may only deviate from this position if there are mandatory reasons with regard to foreign affairs, and provided the joint prior assent of the federal Ministers for Foreign Affairs and European Union Affairs.
- 13) In cases when the IMCEUA fails to reach a decision, the United Cyprus Republic shall abstain. In such a case, one representative from each constituent state shall attend the relevant meeting; these two representatives may, by common agreement, change the position of abstention.
- 14) In case of urgency, the members of the Group and the IMCEUA may consult with each other and strive to arrive at a consensus decision without a formal meeting of the Group and the IMCEUA. In such a case, the decision shall be circulated and be signed.
- 15) A record of each meeting shall be kept and sent to every member of the Group and IMCEUA.
- 16) The decisions of the Group and IMCEUA shall determine the position of the representative of Cyprus in the European Union regarding matters which have been duly coordinated in accordance with the provisions of

paragraph 6. Copies of the instructions of the Group and IMCEUA shall be delivered to the representatives of the federal government and the constituent states.

- 17) If the positions taken by the Group and IMCEUA need to be urgently adapted in the course of a meeting of a European Union institution, the respective representative shall immediately inform the Group. If a revised decision of the Group cannot be obtained in time by consensus and if the IMCEUA cannot decide by special majority which will include two votes hailing from each constituent state, the representative of Cyprus shall abstain, except in cases where s/he has received clear freedom from the Group or the IMCEUA to choose the position that will most likely address the general interests of the Cyprus in light of the discussions held during the respective decision-making mechanisms. It is understood that in such circumstances the vote given by the representative of the Cyprus shall be final.
- 18) On areas which fall exclusively or predominantly within the competence of the federal government, the Group shall be the forum within which regular consultations with representatives from ministries of the constituent states shall take place in accordance with the provisions of the Federal Law on European Union Affairs.

Article 6 Representation

- 1) Cyprus may be represented in the Council of the European Union by a Member of either the Presidential Council or a Member of Government of a constituent state.

2) Where the matters to be discussed in the Council are among those mentioned in article 6, the representative of Cyprus in the Council shall be appointed by the Presidential Council upon suggestion of the IMCEUA which will have due regard to the configurations of the Council and to the availability of expertise on each subject. The Presidential Council may also decide that the person representing Cyprus should be assisted by officials of the federal government or of one or both constituent states. In so doing, consideration may be given to the indicative list appearing in the Annex hereto.

- 3) Representatives of Cyprus in the Council shall be notified to its General Secretariat. Such representatives attending meetings or the Permanent Representative of Cyprus to the European Union or any officer of the Permanent Representation acting under the Permanent Representative's instructions shall have the exclusive right to make legally binding declarations as mandated.
- 4) Upon the decision of the Presidential Council that the seat in the Council of the European Union is to be occupied by a member of a constituent state Government, such representation shall ensure equal rotation between the representatives of the constituent states and shall be rotated

at equal intervals in accordance with a system designed to take account of the timetable of the European Union's work

- 5) The representation of the federal government and the constituent states shall take place in accordance with the following principles:
 - a) rotation shall be with a proportion of one member of one constituent state to one member of the other constituent state;
 - b) representation shall be synchronized with the Council Presidency;
 - c) due to the more frequent meetings of some Council configurations which is more than once in a half-year, the Minister empowered for that half-year will remain authorised for the different Council meetings of the period;
 - d) certain Council configurations will meet only irregularly. The Minister empowered for that half-year will be automatically authorised for the following session if no Council meeting has taken place during the half-year.
- 6) Cyprus shall have one representative throughout the session of the Council who shall be the Minister, or in his/her absence, the Permanent Representative of Cyprus to the European Union or, in the absence of both, any officer of the Permanent Representation acting in accordance with the instructions of the Permanent Representative. The assigned representative shall have the right to vote and shall be the only authorised spokesperson.
- 7) The Minister appointed to represent Cyprus in a given configuration of the Council shall attend informal Ministerial meetings, which may be called on any matter covered by the set configuration, unless the convening Presidency allows the participation of more than one Minister per Member State.
- 8) At informal Councils on matters on which the constituent state authorities are empowered to represent the Member State in an official or formal Council, the system of rotation will be the same as for the official Councils.
- 9) Cyprus will be represented in the Economic and Social Committee according to proportional representation, provided that no less than one third of the seats is attributed to persons hailing from each constituent state. The members of the Economic and Social Committee to be nominated by Cyprus shall be selected by the Presidential Council after consulting with the constituent state authorities.
- 10) The seats of Cyprus in the Committee of Regions shall be occupied in equal proportion by representatives of the two constituent states. The members of the Committee of Regions are to be nominated by the Presidential Council upon the proposal of each constituent state.

Article 7 *Implementation of European Union law*

- 1) The Department of European Union Affairs is entrusted with ensuring coordination of European Union affairs between the federal government and the constituent states, in particular with the obligation to:
 - a) ensure that European Community law is transposed fully and in time,
 - b) ensure that the European Union's *acquis* is not infringed, and
 - c) inform the Group and the IMCEUA on the progress of the implementation of the obligations of the Cyprus arising out of European Union membership.
- 2) If a constituent state fails to fulfill the obligations of the United Cyprus Republic vis-à-vis the European Union within its area of competence and the United Cyprus Republic may be held responsible by the Union, the federal government shall, after notification of no less than 90 days (or a shorter period if indispensable according to European Union requirements), take necessary measures after duly informing and consulting with the defaulting constituent state, to be in force until such time as that constituent state discharges its responsibilities.
- 3) If the United Cyprus Republic is condemned by a judgment of the Court of Justice of the European Communities because one of the constituent states or an authority or body thereof has failed to fulfill the obligations of the United Cyprus Republic vis-à-vis the European Union within its area of competence, the Presidential Council shall invite the said constituent state to proceed, within 90 days, or within a shorter period if indispensable according to the Court's requirements, to the enforcement of the judgment. If the constituent state does not comply, the Presidential Council shall take the necessary measures in lieu of the defaulting constituent state, to be in force until such time as the constituent state discharges its responsibilities. The federal government can only take such measures if it has taken appropriate measures in order to involve the concerned constituent state in the proceedings before the Court in conformity with Article 8 of this Agreement.
- 4) Any expenses incurred by, fines imposed on or compensation claimed from the United Cyprus Republic by European Union Courts shall be borne by the federal government or the relevant constituent state which by failing to implement the obligations of Cyprus led to the condemning decision.

Article 8 *Legal action in which the United Cyprus Republic is a party*

- 1) The federal government may bring an action before the European Union Courts in areas of competence of the constituent states upon duly informing and consulting the constituent states about its wish to do so.
- 2) Whenever the federal government is a party to proceedings involving exclusively or predominantly the competences of the constituent states, the competent federal authorities shall take appropriate measures in order to inform and involve the concerned constituent states in the proceedings

before the court in a manner compatible with the relevant rules of that court.

- 3) In case of disagreement whether a proceeding involves exclusively or predominantly the competences of the constituent states, the Group shall decide by consensus. In case of persistent disagreement, the matter may be resolved by the Supreme Court.

Article 9 *Action brought before the European Union Courts upon request of the constituent states*

- 1) In case of an illegal act or decision on behalf of, or misuse of power or failure to act by, an institution of the European Union or another Member State concerning matters in the areas of competence of the constituent states, Cyprus shall bring an action before the Court of Justice of the European Communities upon the request of a constituent state or both constituent states. Such request is to be addressed to the IMCEUA and shall include all information relevant to a legal action before the Court of Justice of the European Communities. If the relevant rules of the Court permit direct legal action by the constituent states, constituent states may act freely without any interference from the federal government, provided that full and detailed information is transmitted to the federal government.
- 2) The request of the constituent states or either of them to the federal government to bring an action before the Court of Justice of the European Communities shall be in the form of a draft application. A Working Group established under the IMCEUA shall work on the issuance of the application. The Working Group shall be chaired by a representative of the Chairperson of the IMCEUA and shall consist of the Attorneys-General of the federal and the constituent states and/or their representatives as necessary, and, if necessary, of other representatives of the federal government and the constituent states. If the request emanates from one constituent state and provided that the other constituent state does not wish to participate, the Working Group shall comprise only representatives of the requesting constituent state and the federal government.
- 3) The Working Group shall determine, by consensus, within one week from submission of the draft application to the IMCEUA, whether the case relates to a dispute that falls exclusively or predominantly within the competence of the constituent states.
- 4) The consensus reached within the Group that the case relates to a dispute which exclusively or predominantly falls within the competence of the constituent states shall be notified to all members of the IMCEUA immediately. If no member of the IMCEUA raises any objections within two working days, this shall be deemed to be an approval of the decision of the Working Group by the IMCEUA.
- 5) In case a consensus is not reached within the Group, or if one or more members of the IMCEUA object, the matter shall be referred to the IMCEUA, which shall consider the matter within 3 working days.

- 6) When the matter is referred to the IMCEUA, it will decide by consensus whether the case relates to a dispute which falls exclusively or predominantly within the competence of the constituent states.
- 7) If the case relates to a dispute which falls exclusively or predominantly within the competence of the constituent states, the application shall be filed without further ado, unless the Ministers of External Affairs and European Union Affairs jointly agree that there are mandatory reasons with regard to foreign affairs not to do so, provided that such reasons cannot be invoked in cases against institutions of the European Union.
- 8) Upon the filing of the application with the Court of Justice of the European Communities, one representative from the federal government, and one from each of the constituent states concerned shall be designated to participate in and follow up the proceedings. Except when the rules of the Court accept the direct appearance of the constituent states, the federal competent authority shall be responsible for bringing and handling the matter before the Court.
- 9) The Working Group referred to in paragraph (2) shall be kept informed of all new developments in the proceedings instituted by the federal government.
- 10) Proceedings may be withdrawn upon the request of the constituent state that initiated the proceedings unless the other constituent state gives, within a period of two weeks, valid reasons for not doing so.
- 11) The costs of such legal action shall be borne by, and proportionally shared among, the constituent states requesting and intervening in the action.

Article 10 Adaptation

The federal government and the constituent states may add to, adapt or amend this Agreement by consensus. In particular, they shall adapt this Agreement to take account of further developments of European integration.

Article 11 Presidency

Prior to Cyprus exercising the Presidency of the Council, the Group shall make specific suggestions to the Presidential Council.

Article 12 Disputes resulting from the application of this Agreement

Any dispute resulting from the application of this Agreement shall be decided by the Supreme Court of Cyprus.

Article 13 *Transitional Period*

The provisions of this Agreement shall apply *mutatis mutandis* during the transitional periods provided for in the Foundation Agreement and the Constitution.

ANNEX

1. General Affairs and External Relations: federal representation only
2. Economic and Financial Affairs: federal with constituent state assistance
3. Justice and Home Affairs: federal with constituent state assistance
4. Employment, Social Policy, Health and Consumer Affairs: constituent state with federal government assistance
5. Competitiveness (Internal Market, Industry and Research): federal with constituent state assistance for the Internal Market; constituent state with federal assistance for Industry and Research
6. Transport, Telecommunications and Energy: federal with constituent state assistance
7. Agriculture and Fisheries: constituent state with federal government assistance
8. Environment: constituent state with federal government assistance
9. Education, Youth and Culture: constituent state only

ATTACHMENT 3: COOPERATION AGREEMENT ON POLICE MATTERS

[insert agreed text by no later than 25 March 2003. If agreement is not reached on indispensable provisions of this law by that date, the United Nations Secretary-General shall insert his suggestion for completing such provisions, which shall be put to referenda with the rest of the Foundation Agreement.

Text should include provisions on cooperation arrangements between constituent state police, between constituent state police and federal police, and regarding joint investigation agency; these provisions should create a cooperation committee; they should, *inter alia*, address the issue of hot pursuit]