



# The Constitutional Structure of the Cypriot State and Its Contribution

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## INTRODUCTION

A constitutional crisis is defined as a situation in which the state institutions disagree on the proper way to exercise their powers. But the disagreement involves persons under their institutional capacity and affects how they perceive the way they exercise their duties. In other words, it is a disagreement that is not only about different interpretations of the meaning of a constitutional provision, but mainly about different interpretations of its purpose, and the different interpretation has a decisive influence on how they exercise their powers. That is, the disagreement touches on issues that are relevant and directly affect the constitutional design of the power sharing structure provided by the Constitution. But the constitutional crisis also has a factual background. If despite the different interpretations the functioning of the state organs continues unhindered, that is, if the functioning of the bodies of the state is not affected, then there is no constitutional crisis. After all, dispute is a constituent element of political life in modern democracies. To have a constitutional crisis, dispute must lead to a breach which makes it impossible to implement the provisions of the constitution. There are three different types of constitutional crises. The first type of constitutional crisis concerns those cases in which institutional actors publicly declare their intention not to apply the guarantees of the constitution because a situation requires urgent dealing and the faithful compliance to the Constitution would render the emergency handling ineffective. But for such a situation to be considered a constitutional crisis, it must involve the failure of the system of government provided for in the constitution to function. But the plea of the need to deviate from the Constitution, and to resort to procedures not provided for in the Constitution, must be due to the failure to resolve disagreements through the application of the procedures provided for in the Constitution or to the belief of the actors that the Constitution in this case is unable to contain the disagreements of political actors

within the limits set by itself. Usually, the veto power and increased majorities are mechanisms which ensure that the principle of separation of powers can act as a system of «check and balances» which prevents the omnipotence of one power over the others. In this perspective, the principle of the separation of powers does not only refer to the distinct scope of each power's competence, but it is understood as a system to prevent each power from being overstepped. However, the check and balances mechanisms, and in particular the possibility of a veto by the holders of one power against the holders of the other two powers, are intended to set limits to the majority principle, not to neutralize it. They are intended to prevent decisions being taken on the basis of oppressive majorities and not to render the majority principle ineffective. For this reason, the veto cannot ultimately prevent a decision based on the principle of majority from being taken altogether, even if a majority is required to override the veto. In the Cypriot Constitution, the possibility of a veto is not part of the rationale underlying the check and balances model. It is not intended to restrict decision-making based on oppressive majorities but decision on matters of vital interest to the two communities from being taken based on the principle of majority. Moreover, the Cypriot Constitution enshrines the presidential system of government which, as a form of government, favors zero-sum logic more than the parliamentary system. Such logic is reinforced in the Cypriot Constitution by the possibility of mutual vetoes between the President and the Vice-President without any mechanism being provided for, to remove the deadlocks that may be caused by mutual veto. The result is that a mechanism which was intended to limit the consequences of potential disagreement between the two communities ended up reinforcing disagreements as the Cypriot Constitution did not provide for parallel mechanisms which would make the lack of cooperation less attractive as a prospect cooperation.