Constitutional Framework

I. Survey of the Constitution

The Constitution of Cyprus is divided into 13 Parts and 199 Articles. It is a detailed document that makes provision for virtually every aspect of the Administration of the country and prescribes the rules governing the exercise of the powers entrusted to organs of government. Part I, headed “General Provisions”, identifies the premises upon which the Republic of Cyprus is founded. Part II, entitled “Fundamental rights and liberties”, stipulates for and guarantees the rights of the individual. Given the scope and breadth of the entrenched rights, discernible from their content and sphere of application, it can justly be said that Part II of the Constitution provides an extensive charter of human rights though not an exhaustive one. A drawback of this chapter is that the application of certain human rights is qualified by reference to the community to which persons belong, Greek or Turkish. A percentage of 30 percent of positions in the Executive, the Legislature, the public service and the security forces (police and gendarmerie) and a percentage of 40 percent of posts in the army is assured to members of the Turkish community making up only 18 percent of the population as opposed to the Greek community making up 82 percent of the population to which the remaining percentage of posts and offices is allotted. Thus, merit ceases to be the sole qualification for appointment to the
public service. The acknowledgment of human rights to persons by reference to factors extraneous to human identity is an antinomy to the very concept and object of human rights.

The competence, authority and jurisdiction of the three powers of the State are defined in different Parts of the Constitution (executive power – Part III, legislative power – Part IV, judicial power – Parts IX and X). Each of the three branches of government is referred to in terms as a power, a fact indicative in itself of the status of each pillar of the State (see Articles 54, 61 and 152). At no stage does the authority of one power of the State converge upon that of another; nor is there any element of subordination of one power to another.

Save for communal matters, state power is allocated in its entirety to the legislative, executive and judicial branches of government trusted to function coordinately for the promotion of individual and common good. Each power of the State is autonomous in its domain, self-sustaining and functionally independent. Subject to the Constitution, power is conferred upon each branch of the State to regulate its proceedings. Educational, cultural and matters pertaining to cooperative societies of the Greek and Turkish communities are assigned respectively to Greek and Turkish Communal Chambers (Part V of the Constitution).

II. The Supremacy of the Constitution

The Constitution is declared to be the supreme law of the land – Article 179.1. Article 179.1 reads:

This Constitution shall be the supreme law of the Republic.

Article 179 establishes on the one hand the supremacy of the Constitution and on the other prohibits the enactment of any law, rule or regulation or the issuing of any act or decision by any organ or authority of the State that is contrary to or inconsistent with the Constitution. This prohibition is prescribed in absolute terms in Article 179.2. It reads:

No law or decision of the House of Representatives or of any of the Communal Chambers and no act or decision of any organ, authority or person in the Republic exercising executive power or any administrative function shall in any way be repugnant to, or inconsistent with, any of the provisions of this Constitution.