

## **Council of Europe contribution for the 18<sup>th</sup> UPR session regarding Cyprus**

### **Prevention of Torture**

On 6 December 2012, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its periodic visit to Cyprus from 12 to 19 May 2008, together with the response of the Cypriot Government. These documents have been made public at the request of the national authorities and are attached below.

In the report, the CPT expresses concern about the risk of ill-treatment by the police, both at the time of apprehension and during the subsequent period of custody and questioning. The report also highlights the need to tackle the problem of overcrowding at Nicosia Central Prisons and to ensure a satisfactory level of health-care provision for inmates at the establishment.

A complete list of the CPT's recommendations, comments and requests for information is contained in Appendix I to the report.<sup>1</sup>

In its response, the Cypriot Government provided details on measures being taken to address the issues raised in the report.

The CPT will carry out its next periodic visit to Cyprus in 2013.



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### **Council of Europe Commissioner for Human Rights**

On 27 July 2010, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, published his letter, dated 29 June 2010, addressed to the Mr Neoklis Sylikiotis, Minister of Interior of Cyprus. The Commissioner's letter and the reply by the Minister are attached below.

“Progressive measures have been taken to fight trafficking in human beings. It is now crucial for Cyprus to step up efforts to eradicate this scourge totally” said Thomas Hammarberg, The letter followed the Commissioner's visit to Cyprus on 10 June 2010 and focuses also on the human rights of asylum seekers and refugees.

The Commissioner welcomes the measures taken to combat trafficking, in particular the abolition of the much criticised ‘cabaret artist visa’ and the introduction of the new action plan 2010 - 2012. However, he is concerned that other types of work permits, such as the one for bar maids, might be used to circumvent the law. “The authorities should remain vigilant against organised crime and ensure that no type of visa or working permit can be abused for such unlawful purposes as trafficking in human beings.”

The Commissioner underlines that ongoing awareness-raising efforts should be complemented with measures aimed at eliminating the nexus of sexual demand with trafficking. In this context, he invites the authorities to seek cooperation with international bodies and other countries with experience in this domain.

Commissioner Hammarberg also commends the continuous operation of the government-run shelter for victims of trafficking and calls on the authorities to ensure that budgetary cuts planned

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<sup>1</sup> pp. 59-72.

to face the economic crisis do not undermine adequate assistance to these victims.

With regard to the human rights of asylum seekers and refugees, the Commissioner appreciates the improvement of access to health care, the labour market and legal aid, and calls for the removal of administrative obstacles which might still hamper the full enjoyment of these rights.

Still, the Commissioner remains concerned about the long periods of detention with which some asylum seekers are faced following rejection of their applications. He urges the authorities to ensure an individual examination of each case in order to assess the purpose and proportionality of all asylum seekers' detention.



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### **Action against Trafficking in Human Beings**

On 12 September 2011, the Group of Experts on Action against Trafficking in Human Beings (GRETA) published its first evaluation report on Cyprus<sup>2</sup>, together with the final comments of the Cypriot Government. Both documents are contained in the attachment below.

In its report, GRETA takes stock of the measures taken by Cyprus to implement the Council of Europe Convention on Action against Trafficking in Human Beings and makes proposals concerning the way in which the Cypriot authorities may deal with the problems identified. The adoption of a comprehensive anti-trafficking law and the abolition of the so-called “artiste visas”, which favoured trafficking of women for the purpose of sexual exploitation, are amongst the important steps taken by the Cypriot authorities to prevent and combat trafficking in human beings. However, there has not been a single conviction for the criminal offence of trafficking in human beings and no victims have received compensation. In its report, GRETA stresses the need to take specific measures to discourage demand for the services of trafficked persons, to provide adequate assistance to all victims of trafficking and to address the lack of convictions for the crime of trafficking in human beings.

In its report GRETA provides concluding remarks<sup>3</sup> as well as a complete list of proposals to the Cypriot authorities.<sup>4</sup>



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### **Execution of judgments and decisions of the European Court of Human Rights**

At 31 December 2012, there were 32 cases pending before the Committee of Ministers for supervision of their execution against Cyprus. Eight of these cases were “leading cases”, i.e. raising a new structural/general problem and requiring the adoption of general measures. The main case or group of cases revealing such structural problems is listed below:

- ❖ Ineffective investigation into the circumstances of the death of a victim of trafficking and different problems linked to the fight against trafficking - *Rantsev v. Cyprus and Russia*, (application No. 25965/04, judgment final on 10.05.2010)

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<sup>2</sup> A summary of the report can be found on pp. 7-8.

<sup>3</sup> p. 41.

<sup>4</sup> Appendix I.

The document attached presents a brief description of the violation and the latest detailed decision taken by the Committee of Ministers and the responses given thereto by the respondent state.



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## **Fight against racism and intolerance**

On 31 May 2011, the European Commission against Racism and Intolerance (ECRI) published its fourth report on Cyprus (attached below).<sup>5</sup> ECRI's Chair, Nils Muiznieks, said that, while there are positive developments, some issues of concern remain, such as the disproportionately high concentration of Turkish Cypriot and Roma pupils in particular schools and the continued vulnerability of foreign domestic workers.

Cyprus has established a comprehensive legal framework for safeguarding equality and combating discrimination. The Independent Authority for the Investigation of Complaints and Allegations concerning the Police has been set up and the Observatory against Violence records and analyses episodes of violence in schools and assesses incidents of a racist nature.

Measures in favour of Turkish Cypriots have been taken, including a law adopted in 2006 allowing Turkish Cypriot residents to vote and be elected in parliamentary, municipal and community elections and to vote in presidential elections.

However, Cyprus still lacks an integration policy and pursues a restrictive immigration policy, particularly concerning the granting of long term residence status. Legislation is being prepared to combat irregular migration through "sham marriages" before they even take place. There is a rise in prominence of extremist anti-immigration groups and certain ultra-nationalist websites disseminate hate speech. The Polemidia housing settlement for Roma constitutes *de facto* segregation from the majority population and the children are denied their right to education.

Despite some improvements in the asylum system, access to employment for asylum seekers is restricted to specific unskilled sectors. Legal aid is only available at the appeal stage against negative asylum decisions and very few meet the conditions to obtain it.

The report contains findings and recommendations regarding the following issues:

- Existence and implementation of legal provisions<sup>6</sup>
- Discrimination in various fields, including administration of justice, education, employment, housing and health<sup>7</sup>
- Racism in public discourse<sup>8</sup>
- Racist violence<sup>9</sup>
- Vulnerable/target groups, including Turkish Cypriots, Roma, Armenians, Latins and Maronites, Pontian Greeks and non-citizens<sup>10</sup>
- Conduct of law enforcement officials<sup>11</sup>
- Monitoring of racism and racial discrimination<sup>12</sup>

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<sup>5</sup> A summary of the report can be found on pp. 7-8.

<sup>6</sup> pp. 9-17.

<sup>7</sup> pp. 17-25.

<sup>8</sup> pp. 25-27.

<sup>9</sup> pp. 27-28.

<sup>10</sup> pp. 28-38.

<sup>11</sup> pp. 38-39.

- Education and awareness-raising<sup>13</sup>

The following three recommendations require priority implementation and will be revisited in two years' time:

- take urgent steps to implement fully the programme Zones of Educational Priority, in particular in respect of the 18<sup>th</sup> Primary School, to ensure that the right to education is respected in practice;
- revise their legislative plans to adopt a policy requiring third country nationals wishing to marry Cypriot or EU citizens to pass a premarital interview with the migration authorities before being given permission to marry;
- develop further the Crime Report System and improve the court archiving system so that cases are classified also by subject matter and clearly indicate racist elements.



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## Protection of Minorities

### *Framework Convention for the Protection of National Minorities*

On 21 September 2011, the Council of Europe's Committee of Ministers adopted a resolution on the protection of national minorities in Cyprus (attached below). The resolution contains conclusions and recommendations, highlighting positive developments<sup>14</sup> but also mentioning issues of concern<sup>15</sup>. Moreover, it mentions a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I<sup>16</sup> and II<sup>17</sup> of the Advisory Committee's opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention.

#### Issues for immediate action<sup>18</sup>

- take adequate measures to ensure, during the population census in 2011 and other forthcoming processes, effective implementation of the principle of self-identification, especially in respect of the Armenians, the Latins and the Maronites, as well as the Roma;
- take urgent action to combat and sanction effectively all forms of discrimination and intolerance, including misconduct by members of the police force;
- adopt without further delay a comprehensive integration strategy and take adequate measures to ensure its effective implementation;
- take additional measures to provide a more adequate response to the educational needs of the Armenians, the Latins and the Maronites, in particular as regards the availability of teaching materials and qualified teachers; provide the support needed to enable adequate minority language teaching for the Armenians and the Maronites.

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<sup>12</sup> pp. 39-40.

<sup>13</sup> pp. 40-41.

<sup>14</sup> Part 1.a) of the resolution

<sup>15</sup> Part 1.b) of the resolution.

<sup>16</sup> pp. 5-8 of the third Opinion of the Advisory Committee on the Framework Convention on Cyprus.

<sup>17</sup> pp. 9-33 *ibid*

<sup>18</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

### Further recommendations<sup>19</sup>

- re-examine, in the light of the principle of free self-identification and in view of any subsequent revision of the Constitution, the obligation of the Armenians, the Latins and the Maronites to affiliate themselves with either the Greek Cypriot Community or the Turkish Cypriot Community, as well as their statutory obligation to vote to elect their representative in parliament;
- pursue the dialogue with the Armenians and the Maronites concerning their possible recognition as a national minority rather than “religious group”, and with the Latins to find a designation more acceptable to them;
- while stepping up measures to protect and support the Roma under the Framework Convention, identify ways to establish a structured dialogue with them and to obtain up-to-date information regarding their ethnic, linguistic and religious affiliations;
- take more resolute measures to increase awareness on the equality and non-discrimination principles, focussing in particular on journalists, law enforcement forces and members of the judiciary; ensure the operational independence and effectiveness of the National Human Rights Institution and strengthen the institutional capacity of the Ombudsman Office;
- make efforts to adjust public support to the preservation and development of the culture of the Armenians, the Latins and the Maronites to their actual needs, and effectively assist these groups in the establishment of cultural centres;
- take effective measures, including of a financial nature, to support the revitalisation and promotion of the language of the Maronites as well as their culture, religion and traditions and increase efforts to facilitate their contacts with persons who share their identity and their place of origin;
- take more resolute steps to promote mutual respect and understanding within Cypriot society; pursue and develop measures to enable effective participation of Turkish Cypriots in cultural, social and economic life and in public affairs, in particular those affecting them;
- identify ways to enable a more effective participation of the Armenians, the Latins and the Maronites in public affairs in parliament and through improved consultation mechanisms.

The Committee of Ministers' Resolution is largely based on the corresponding third Opinion of the Advisory Committee on the Framework Convention on Cyprus. The concluding remarks, contained in Section III<sup>20</sup>, serve as the basis for the Resolution. The Opinion of the Advisory Committee and the comments on the Opinion by the Cypriot Government are also attached below.



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### *European Charter for Regional or Minority Languages*

On 14 March 2012, the Council of Europe Committee of Ministers made public the third report on the application of the European Charter for Regional or Minority Languages by Cyprus. The report drawn up by a committee of independent experts, which monitors the application of the Charter, is contained in the attachment below. It includes the Committee of Ministers' Recommendation on the application of the European Charter for Regional or Minority Languages by Cyprus.

On the basis of the report, the Committee of Ministers calls on Cyprus to adopt a structured policy for the protection and promotion of the Armenian and Cypriot Maronite Arabic languages. Furthermore, it recommends the Cyprus authorities to provide teacher training for Armenian and Cypriot Maronite Arabic. The Committee of Ministers also calls on Cyprus to strengthen the teaching in and of Cypriot Maronite Arabic.

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<sup>19</sup> *Idem.*

<sup>20</sup> pp. 34-37.



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## **Preventing and Combating Violence against Women and Domestic Violence**

Cyprus has not yet signed or ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. For this reason, it is not yet concerned by the monitoring procedure under the Convention.

## **Social and economic rights**

Cyprus ratified the European Social Charter on 07/03/1968 and the Revised European Social Charter on 27/09/2000, accepting 63 of its 98 paragraphs. In October 2011 Cyprus accepted to be bound by 9 additional provisions of the Revised Charter, bringing the total of accepted provisions to 72 of the 98 paragraphs.

It accepted the Additional Protocol providing for a system of collective complaints on 06/08/1996, but has not yet made a declaration enabling national NGOs to submit collective complaints.

### Cases of non-compliance

#### *Thematic Group 1 "Employment, training and equal opportunities"*

- ▶ Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

The duration of alternative military service amounting to almost three years is excessive and constitutes a disproportionate restriction on the right to earn a living freely entered upon. (Conclusions 2012, p. 8)

- ▶ Article 10§5 - Right to vocational training - Full use of facilities available

It has not been established that the equal treatment of nationals of other States Parties as to fees and financial assistance is guaranteed. (Conclusions 2012, p. 20)

- ▶ Article 15§2 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities

It has not been established that persons with disabilities are guaranteed effective protection against discrimination in employment. (Conclusions 2012, p. 27)

- ▶ Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community

It has not been established that disabled people are effectively protected against discrimination in the fields of housing, transport and cultural and leisure activities. (Conclusions 2012, p. 32)

- ▶ Article 20 – Right to equal opportunities and treatment in employment and occupation without sex discrimination

The employment of women in underground mining is prohibited. (Conclusions 2012, p. 36)

- ▶ Article 24 – Right to protection in case of dismissal

1. Employees who have not been employed with their employer for a continuous period of 26 weeks are not entitled to protection against dismissal.
2. The categories of persons excluded from protection go beyond what is allowed under the Appendix to the Charter.  
(Conclusions 2012, p. 38)

#### *Thematic Group 2 "Health, social security and social protection"*

► Article 3§2 – Right to safe and healthy working conditions – Safety and health regulations  
Domestic workers are not covered by any occupational health or safety regulations.  
(Conclusions 2009, p. 8)

► Article 12§1 – Right to social security – Existence of a social security system  
1. The social pension is manifestly inadequate;  
2. The sickness, unemployment, work injury and maternity benefits are manifestly inadequate even if calculated on the basis of average basic insurable earnings.  
(Conclusions 2009, pp. 17-18)

► Article 12§4 – Right to social security – Social security of persons moving between states  
1. The length of residence requirement for a social pension for non-nationals not covered by Community regulations is excessive;  
2. Accumulation of insurance periods acquired under the legislation of a State Party which is not covered by Community regulations or not bound by an agreement with Cyprus is not guaranteed.  
(Conclusions 2009, p. 22)

#### *Thematic Group 3 "Labour rights"*

► Article 6§4 – Right to bargain collectively – Collective action  
The Trade Union laws 1955-1996 require that a decision to call a strike must be endorsed by the executive committee of a trade union.  
(Conclusions 2010, p. 9)

#### *Thematic Group 4 "Children, families, migrants"*

► Article 7§1 and 7§3 – Right of children and young persons to protection - Prohibition of employment under the age of 15 – Prohibition of employment of young persons subject to compulsory education  
The prohibition on the employment of under 15 year olds does not apply to children employed in occasional or short-term domestic work.  
(Conclusions 2011, p. 5 and p. 6)

► Article 7§10 - Right of children and young persons to protection - Special protection against physical and moral dangers  
It has not been established that children are effectively protected against the misuse of information technologies.  
(Conclusions 2011, p. 9)

► Article 19§1 – Right of migrant workers and their families to protection and assistance - Assistance and information on migration  
It has not been established that appropriate steps against misleading propaganda relating to emigration and immigration have been taken.  
(Conclusions 2011, p. 13)

► Article 19§4 – Right of migrant workers and their families to protection and assistance - Equality regarding employment, right to organise and accommodation

It has not been established that migrant workers enjoy treatment which is not less favourable than that of nationals with respect to remuneration, employment and other working conditions; membership of trade unions, enjoyment of the benefits of collective bargaining; and access to housing.

(Conclusions 2011, p. 16)

► Article 19§6 (and 19§10) – Right of migrant workers and their families to protection and assistance - Family reunion

The requirement for foreign workers wishing to be joined by their close relatives to have been residing lawfully in Cyprus for at least two years is excessive.

(Conclusions 2011, p. 17 and p. 19)

► Article 27§3 – Right of workers with family responsibilities to equal opportunity and treatment – Illegality of dismissal on the ground of family responsibilities

Courts may only order reinstatement of an unlawfully dismissed employee in cases where the enterprise concerned has more than 20 employees.

(Conclusions 2011, p. 21)

Please find attached below the Conclusions regarding Cyprus from 2009, 2010, 2011 and 2012, as well as the fact sheet.



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Cyprus2010\_en.pdf



Cyprus2011\_en.pdf



Cyprus2012\_en.pdf



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