

kisa

Ισότητα, Στήριξη, Αντιρατσισμός
Equality, Support, Antiracism



International Convention on the Elimination of All Forms of Racial Discrimination

Country: CYPRUS

ALTERNATIVE REPORT

Submission of KISA – Action for Equality, Support, Antiracism

Nicosia, 9 August 2013



Profile of KISA- Action for Equality, Support, Antiracism

KISA is a NGO, established in 1998, and its vision is the promotion of an all-inclusive, multicultural society, free of racism, xenophobia and discrimination and where, through the interaction and mutual respect of diverse cultures, there will be equality and respect for the rights of all, irrespective of race, nationality or ethnicity, colour, creed or beliefs, gender, sexual preference or orientation, age, inability or any other diversity.

KISA's action is focused on the fields of Migration, Asylum, Racism, Discrimination and Trafficking, and it includes awareness-raising of the Cypriot society as well as lobbying in order to influence the legal and structural framework, the policies and practices in these fields. KISA operates a Migrant and Refugee Centre that provides free information, support, advocacy and mediation services to migrants, refugees, victims of trafficking and racism / discrimination and ethnic minorities in general, as well as promotion of the integration, empowerment and self-organisation of migrants and refugees. The combination of activities of social intervention and the operation of services as well as the strong ties with the migrant and refugee communities enable KISA to have a very accurate and updated picture about the realities in the areas of its mandate.

KISA's long established expertise on migration, asylum, trafficking and anti-discrimination issues is also evident from its recognition as an organisation with credibility, professionalism and experience in implementing European programmes, such as EQUAL, ERF, EIF, PROGRESS, DAPHNE, Prevention of and Fight against Crime Programme of DG for Justice, Freedom and Security, MIPEX, MRIP, as well as research projects implemented on behalf of and/or in cooperation with European agencies, NGOs and other organisations, such as the Fundamental Rights Agency (Separated Children), DG for Employment, Social Affairs and Equal Opportunities, SEN (Network of Socio-Economic Experts in the Non-Discrimination Field), MRG (Minority Rights Group), IOM (International Organization for Migration), the British Council, and others.

KISA cooperates with various other stakeholders and independent institutions related to its scope and objectives at national and European level such as the office of the Ombudsman, the Body against Discrimination and Racism the Commissioner for the Rights of Children, European Committee Against Racism and Intolerance (ECRI), the Human Rights Commissioner of the Council of Europe, GRETA.

KISA is also a very active member of European and international NGOs and networks such as the European Integration Forum, ENAR (European Network Against Racism), PICUM (Platform for International Cooperation on Undocumented Migrants, EAPN (European Antipoverty Network), EMHRN (Euro Mediterranean Human Rights Network), UNITED for Intercultural Action, Migreurop, FRA's Fundamental Rights Platform, and others.

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PART I: GENERAL INFORMATION

1. Historical Background

Since the ancient times, Cyprus has been a crossroad, a point of contact between continents and cultures. Nevertheless, this contact was not based on equal relations but rather on a relationship of conquerors and conquered; consequently, the contact was often experienced and perceived as a threat and oppression.

The long history of Cyprus, which is considered to be 9000 years old, has been determined to a great extent by the extremely important geostrategic position of the island as a crossroad of civilizations and continents on the one hand, and its insignificant scale on the other. Its geostrategic position made the island a permanent target in the context of the wider expansive aims of the great powers of the region, while its small size actually reduced the possibility for protection by the several conquerors and made the island an easy target to conquest. Through its long history, Cyprus has been conquest by the Achaeans, the Phoenicians, the Persians, the Romans, the Byzantines, the Arabs, the Franks, the Venetians, the Ottomans and eventually the British imperialists.

In 1960, Cyprus became an independent state for the first time in its history, contrary to the wish of the Elite of the two ethnic communities, the Greek Cypriots for unification with Greece and the Turkish Cypriots initially for The unification with Turkey and later for the Separation of the island, resulting in the majority of the Cypriots again experiencing the coexistence with another ethnic group as an obstacle rather than an ally in the fulfilment of their interests.

The Constitution of Cyprus was founded on a rigorous bi-communalism agreement between the Greek Cypriot community and the Turkish Cypriot community based on language, religion and other cultural and traditional criteria. Other religious and ethnic groups living on the island at the time of independence had to opt to belong to one of the above mentioned communities. This bi-communal institutional structure later failed to address the needs of Cyprus' other minority diverse communities, such as the migrant communities that have been established and developing through the years.

The bi-communal conflicts of 1963 and the collapse of the institutional structures of the state further strengthened the mistrust, hostility, and polarization of both ethnic and religious communities on the island. The events of 1974, the de facto division of the island and two communities and the persistence of the problem for so many years, consolidated the attitude in Cypriot society that any ethnic or religious difference is a potential threat.

2. Ethnic Groups and minorities in the context of the Cyprus problem ¹

Cyprus' two main communities, Greek and Turkish Cypriots, both have a long-term presence on the island. Greek Cypriots trace their origins and presence on Cyprus back to the Mycenaean colonization of the island around the end of the second millennium BC, while Turkish Cypriots have been present since the end of the sixteenth century, when the island came under the control of the Ottoman Empire. Given this long historical presence, claims on the national character of the island from both sides have long been present in history books and public discourse. For instance, the rise of the Greek Cypriot demand for *Enosis*, that is, union with Greece, at the beginning of the twentieth century, was met with a counter-demand voiced by the Turkish Cypriot power elite. The latter maintained that if any change was to come about to the island's status, then it should be the return of the island to Turkey. In the 1950s this claim was transformed under the banner of *Taksim* (Partition), essentially advocating the division of the island into two geographical areas.

After more than three centuries under Ottoman rule, the island was leased to Britain in 1878. In 1925, following the fall of the Ottoman Empire and the Treaty of Lausanne (which provided for the exchange of populations between Greece and Turkey), the United Kingdom formally annexed Cyprus as a colony. In 1954, the Greek government 'requested the UN Secretary-General to bring before the 9th session of the UN General Assembly the item "Application under the auspices of the United Nations of the principle of equal rights and self-determination of peoples in the case of the population of Cyprus"'.² The application was lodged under mounting pressure from the *Ethnarchy* in Cyprus and public opinion in Greece in an effort to 'internationalize' the issue of Cyprus, and exert pressure on the United Kingdom to proceed with a bilateral arrangement with Greece for the island's unification with the latter. The Greek strategy of recourse to the UN sought to link the aspiration for *Enosis* with the decolonization movement that was sweeping the globe in the aftermath of the Second World War.³

In the aftermath of the Greek failure at the UN, in 1955 a group of Greek Cypriots formed 'EOKA' (Εθνική Οργάνωση Κυπρίων Αγωνιστών – National Organization of Cypriot Fighters), which initiated the Cyprus revolt by waging a multi-layered struggle against colonial rule. Archbishop Makarios and Georgios Grivas Digenis led EOKA. Its main goal was to fight for *Enosis* (Unification with Greece). EOKA's formation and legacy marks a deep ideological and political division within the Greek Cypriot community, which is still vividly present today.

¹ The main content of this session is reproduced from a report entitled "*Minority Rights: Solutions to the Cyprus Conflict*", published in March 2011. The report was written by Nicolas Kyriakou and Nurcan Kaya on behalf of the Minority Rights Group International & KISA – Action for Equality, Support and Anti-Racism. <http://www.minorityrights.org/?lid=10663> (retrieved 11 August 2013).

² Stefanidis, I., *Isle of Discord – Nationalism, Imperialism and the Making of the Cyprus Problem*, London, Hurst and Co., 1999, p. 74.

³ Hatzivasileiou, E., *Στρατηγικές του Κυπριακού – Η δεκαετία του 1950*, Εκδόσεις Πατάκη, 2005, p. 116.

In 1959, EOKA's struggle came to an end with none of the actors emerging as an obvious winner. The Greek Cypriot community failed to achieve *Enosis*, while the Turkish Cypriot community did not secure a solid political standing or effective control of territory of the island. The British had to give up a strategically located colony in the Middle East in exchange for two sovereign bases on the island.

Cyprus was declared a sovereign and independent state in 1960 and was soon admitted to the UN. The London-Zurich agreements between the UK, Greece and Turkey endowed the newly formed Republic of Cyprus with a Constitution, which sought to balance the competing interests of the two communities on the island. The Constitution provided that citizenship was granted on the basis of membership of one of the two communities (i.e. Greek and Turkish), and allocated the administration of official institutions and public offices to members of these communities on the basis of fixed percentages. The Constitution's bi-communal character ran throughout the public service (for example, jobs in the public service were given to Greek and Turkish Cypriots on a ratio of 70 to 30 per cent, respectively) and public affairs. The system included many checks and balances, such as the veto power granted to the Turkish Cypriot vice-president, and the requisite of double majorities on a range of issues in the House of Representatives, that sought to protect the interests of the numerically smaller Turkish Cypriot community. As will be discussed in the next section of this report, the three religious minority groups of Maronites, Armenians and Latins (Roman Catholics)⁴ were asked to choose membership in either of the two dominant communities. Roma, who have a long historical presence on the island, were excluded from the Constitution.

The principal repercussion of this legal arrangement for the three minority religious groups was that they were obliged to join one of the two constitutionally recognized communities. This meant that their political participation was mediated solely through the dominant segments of the population, which would unavoidably lead to their marginalization. Based on these particular features, it is appropriate to label the Constitution as a 'pre-determined consociational' arrangement, wherein the dynamics of power-sharing were shaped not only by a negotiated compromise of the groups immediately involved, but also by the highly influential role of external interested parties, particularly Greece, Turkey and the United Kingdom.

For a Constitution of this type to operate, goodwill and mutual trust were a prerequisite. As these were lacking, many problems arose between the governing Greek and Turkish Cypriot elites and poisoned inter-communal relations⁵ and serious impediments in the functioning of the state. In 1963, President (and Archbishop) Makarios submitted a proposal for

⁴ The term 'Latin' is used to denote Roman Catholics on the island. Some members of the Roman Catholic community reject the term, on the grounds that it does not reflect their wider religious identity. It has been retained here because it remains the most common designation for this group.

⁵ For an illustration of the mistrust between the governing elites see: Soulioti, S., *Fettered Independence: Cyprus, 1878–1964*, Minneapolis, University of Minnesota Press, 2006.

amendments to the Constitution that came to be known as the '13 points'. The main thrust of this proposal was the abolition of the Turkish Cypriot vice-president's veto and of the double majorities in the House of Representatives, as well as a downward revision of Turkish Cypriot representation in the public service and security forces in order to reflect the actual population ratio. Makarios' '13 points' have been severely criticized as an attempt to '[radically change] the 1960 Constitution, rescinding the communal balance, which was the cornerstone of the constitutional and political arrangements of 1960'.⁶

Towards the end of 1963, the first inter-communal fighting since independence broke out, following the killing of two Turkish Cypriots by Greek Cypriots.⁷ The year 1963 also marks the division of the population of Cyprus and of the city of Nicosia: 25,000 Turkish Cypriots moved to enclaves controlled by their community and all Turkish Cypriot civil servants and officials withdrew from their posts. At this point, the Turkish Cypriot community started creating separate administrative structures, parallel to those of the Republic of Cyprus.⁸ Greek Cypriot policy in response aimed at isolating the enclaves where Turkish Cypriots were living, by cutting off all external communication and assistance.

On the other side of the roadblocks, the Turkish Cypriot leadership instituted an iron discipline, often exercising brutal violence towards Turkish Cypriots, and forbidding any social and economic interaction with Greek Cypriots. Both leaderships had succeeded in demonizing the other group in the eyes of their communities, and achieved the segregation of the population on the basis of ethnic lines and geographical division. The conflict escalated throughout 1964 and led to the bombardment by Turkey of the area of Mansoura-Kokkina, situated in the north-west of Cyprus. Mediation attempts by other parties, such as the US-sponsored Acheson plan, did not yield an agreement, although US President Johnson, at the last moment, averted a military intervention by Turkey.⁹ A further crisis erupted in 1967 in the area of Kofinou, which once more led to widespread clashes between the two sides.

In 1967, a military *junta* overthrew the legitimate government in Greece and established a dictatorship that played a principal role in ensuing events in Cyprus. During the period 1968–74, the two communities initiated negotiations in order to reach an agreement on constitutional matters of the state. Under pressure as a result of its economic and political isolation, the Turkish Cypriot side had agreed to changes in line with the '13 points'. At the same time, the Greek *junta* grew hostile towards Makarios, while it fully supported an illegal organization created by former EOKA leader Grivas, named 'EOKA B', which committed a series of terrorist attacks.¹⁰ On 15 July 1974, the *junta* staged a *coup d'état* in

⁶ Polyviou, P., *Μακάριος: τα τρία λάθη*, Εκδόσεις Καστανιώτη, 2009, p. 22.

⁷ Drousiotis, M., *Η πρώτη διχοτόμηση – Κύπρος 1963-64*, Εκδόσεις Αλφάδι, 2005, p. 137

⁸ *Ibid.*, p. 151.

⁹ Uslu, N., *The Cyprus Question as an Issue of Turkish Foreign Policy and Turkish–American Relations 1959–2003*, New York, Nova Publishers, 2003, pp. 59–85.

¹⁰ Mallinson, W., *A Modern History of Cyprus*, London, I.B. Tauris, 2009, p. 2.

Cyprus with the active participation of 'EOKA B' and succeeded in establishing an unconstitutional regime for eight days.

Under the pretence of restoring the constitutional order, as a guarantor power, Turkey invaded Cyprus on 20 July 1974. Since then it has occupied 36 per cent of the territory of the Republic of Cyprus. The ramifications of the invasion were tragic: hundreds of thousands of citizens from both communities as well as from minorities were internally displaced; a number of killings, rapes and disappearances were added to those that had taken place in the preceding years; and it was a devastating blow to the economic life of the island. The UN Security Council issued Resolution 353 demanding an immediate end to the foreign military intervention.¹¹ Meanwhile, the puppet government that was instituted in Cyprus by the *junta* had fallen, as did the *junta* in Greece itself.

In essence, the two communities have been searching since then for a solution that will result in a bi-zonal, bi-communal¹² republic within which they will be politically equal.¹³ Through this proposed solution, two constituent states would be formed within a future federated state. These constituent states would exercise several powers within the boundaries of their geographical area, without prejudice to the single sovereignty and international personality of the united Republic of Cyprus.

During the course of the past 36 years, various efforts and attempts by the international community to resolve the issue have taken different forms. Thus far, on each occasion, these efforts have failed to yield any tangible result, as each has been rejected by at least one side to the conflict. However, the efforts have resulted in the forming of a core framework containing the characteristics of a possible future solution, under which the two communities would be entitled to administer their own zones / constituent states, while the central government would be responsible for the economy, external affairs and defence matters. Two legislative bodies would be created: one would have an equal number of members of Greek and Turkish Cypriots in order to reflect the political equality of their communities, and the other would be constituted on the basis of their population ratio in order to reflect their actual sizes. Rigorous constitutional and institutional checks and balances would protect the numerically inferior community, and a dispute resolution mechanism would be put in place in order to avert or ultimately resolve possible deadlocks. It is also agreed that the federal state would have a single sovereignty, international personality and citizenship.

¹¹ See UN Security Council Resolution No. 353, 20 July 1974, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Cyprus%20SRES%20353.pdf>, retrieved 10 August 2010.

¹² For the meaning of the term 'bi-zonality' according to the UN, see Report of the Secretary-General of 3 April 1992, S/1992/23780, paras 17–25.

¹³ Political equality has appeared in various reports of the UN Secretary-General, which have been officially endorsed by numerous UN Security Council Resolutions. Within the UN context 'political equality does not mean equal numerical participation in all federal government branches, it should be reflected in various ways' and entails 'the effective participation of both communities in all organs and decisions of the federal government' (Report of the Secretary-General of 8 March 1990, S/1990/21183, Annex I, at para. 11)

On 15 November 1983, the ‘Turkish Republic of Northern Cyprus’ (TRNC) was proclaimed.¹⁴ The UN Security Council condemned and declared invalid this declaration through Security Council Resolutions 541¹⁵ and 550.¹⁶

In 1990, the Republic of Cyprus applied to join the EU and in 1993 it received a favourable Opinion from the European Commission.

Twelve years later, UN Secretary-General Kofi Annan presented a plan to the two leaders, which subsequently went through various versions. Its fifth version was submitted to two separate referenda on 24 April 2004: 76 per cent of the Greek Cypriots vote against it, while 65 per cent of the Turkish Cypriots vote in favour.

A week after the rejection of the Annan Plan in 2004, Cyprus joined the EU, along with another nine states. Its membership in an organization of this calibre raised as yet unrealized hopes that it would offer a concrete framework, which would influence the final characteristics of a solution.

3. The bi-communal character of the Constitution

The Constitution of the Republic of Cyprus is bi-communal in character: citizens of the Republic are obliged to profess membership of either the Greek Cypriot or Turkish Cypriot communities.¹⁷ ‘Minorities’ do not appear anywhere in the text of the Constitution,¹⁸ although ‘religious groups’ are recognized as those groups of persons:

‘ordinarily resident in Cyprus professing the same religion and either belonging to the same rite or being subject to the same jurisdiction thereof the number of whom, on the date of the coming into operation of this Constitution, exceeds one thousand out of which at least five hundred become on such date citizens of the Republic.’¹⁹

Within this framework, the three religious groups recognized under the legal provisions of the Constitution of Cyprus are Armenians, Latins and Maronites, all of whom have a long-established, historical presence on the island. Roma, although present as a distinct group

¹⁴ The abbreviation TRNC will be used throughout this report to denote the ‘Turkish Republic of Northern Cyprus’. This is in full knowledge of the fact that the TRNC is not recognized by the UN, and has no legal status.

¹⁵ UN Resolution 541, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Cyprus%20SRES541.pdf>, retrieved 10 August 2010.

¹⁶ UN Resolution 550, <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Cyprus%20SRES550.pdf>, retrieved 10 August 2010.

¹⁷ Article 2 of the Constitution of the Republic of Cyprus.

¹⁸ The same holds for the ‘Constitution’ of ‘TRNC’, see Constitution of the TRNC, <http://www.kktcombudsman.org/en/?op=anayasa>, retrieved 12 August 2010.

¹⁹ Article 2 of the Constitution of Cyprus.

since before independence in 1960, are not formally recognized. This group has remained marginalized in Cypriot society and its situation has only recently come to the fore.²⁰

This constitutional arrangement is problematic, and has been criticized by the Advisory Committee of the FCNM in all three of its Opinions on the Republic of Cyprus issued to date. In its 2001 Opinion, in the context of members of minority groups choosing to belong to the Greek Cypriot community, the Advisory Committee commented:

*'That each person belonging to a religious group is, as an individual, entitled to make use of an opting out. However, in so doing, an individual may only choose to belong to the other community that is to the Turkish Cypriot community. The Advisory Committee considers that such arrangements, provided for by Article 2 of the Constitution, are not compatible with Article 3 of the Framework Convention, according to which every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such.'*²¹

The Advisory Committee reiterated the same criticism in its 2007 Opinion, where it stated that it was deeply concerned by the continuing existence of this obligation.²²

It has pointedly been observed that:

*'In the Cypriot system, political integration operates through the mediation of cultural communities; it is through the affiliation with a cultural community that individual citizens participate in the political institutions. This conflicts with a critical dimension of contemporary international minority rights, namely the idea that people should be free to identify or not with a cultural group.'*²³

Indeed, the current system by which all citizens of the Republic of Cyprus are obliged to join either of the two communities is an anachronistic remnant of the 1960 arrangement, which does not reflect current approaches to citizenship, civic duties and rights for individuals, irrespective of their distinguishing ethnic, religious, cultural or linguistic affiliation and their choice to belong or not to a particular group.

²⁰ Trimikliniotis, N. and Demetriou, C., 'The Cypriot Roma/Gypsies and the failure of education: anti-discrimination and multiculturalism as a post-accession challenge', paper presented at the conference 'Minorities of Cyprus, Past, Present and Future', 24–5 November, http://www.iaie.org/insetrom/download/The_Primary_Education_of_Roma_2006,_Nicos_Trimikliniotis_Paper_for_Website.doc, retrieved 31 October 2010. European Commission against Racism and Intolerance (ECRI), *Third Report on Cyprus*, Strasbourg, Council of Europe, 2005, http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_03/03_CbC_eng/CYP-CbC-III-2006-17-ENG.pdf, retrieved 31 October 2010. Fundamental Rights Agency, *Housing Conditions of Roma and Travellers*, http://fra.europa.eu/fraWebsite/attachments/RAXEN-Roma%20Housing-Cyprus_en.pdf, retrieved 31 October 2010.

²¹ First Opinion on Cyprus of the Advisory Committee of the FCNM, ACFC/INF/OP/I(2002)004, adopted 6 April 2001, http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_1st_OP_Cyprus_en.pdf, p. 6, retrieved 13 August 2010.

²² Second Opinion on Cyprus of the Advisory Committee of the FCNM, ACFC/INF/OP/II(2007)004, http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Cyprus_en.pdf, p. 8, retrieved 10 August 2010.

²³ Ringelheim, J., 'Minority protection and constitutional recognition of difference', in Verstichel, A., De Witte, B., Lemmens, P. and Alen, A., *The Framework Convention for the Protection of National Minorities: A Useful Pan-European Instrument?*, Antwerp, Intersentia, 2008, p. 43.

The current system also fails to account for other minority groups in Cyprus. Apart from the three religious groups mentioned above, no other group is recognized as a minority under Cypriot law, either in the Republic of Cyprus or the TRNC. Turkish Cypriots in the south and Greek Cypriots in the north are considered as *sui generis* minorities. By this it is meant that the two groups, for reasons related to the forced displacement of populations, have found themselves in a numerically inferior status with respect to the societal context in which they exist. In addition, minority groups have been created by immigration, which has considerably altered the demographic features of Cyprus in the past three decades. These groups also fall under the category of minorities that have not been constitutionally recognized.

Turkish Cypriots residing in the southern part of the island are not recognised as a minority. Also, the Turkish Cypriot community in the south itself has long rejected the idea that it constitutes a minority on the island. Notwithstanding this the numerically inferior status of Turkish Cypriots residing south of the Green Line, in combination with their distinct characteristics, are sufficient elements to consider them as a '*sui generis*' minority.

A small number of Turkish Cypriots reside permanently in the areas under the control of the Republic of Cyprus. In 2009, 548 Turkish Cypriots were registered on the electoral roll of the Republic of Cyprus,²⁴ while 2,149 were legally working in the same area.²⁵ The Advisory Committee found that:

*'As a result of the conflict which continues to divide the island, constitutional arrangements regarding the two communities are not fully applied and most of the Turkish Cypriots who live in the territory under Government control find themselves isolated and marginalized politically, economically, socially and culturally. Similarly, the constitutional provisions granting Turkish official language status alongside Greek, are not applied.'*²⁶

The same considerations apply equally to Greek Cypriots residing in the north. Following the 1974 invasion, 20,000 Greek Cypriots remained in the northern part of Cyprus. With the passage of time, their number has decreased, mainly due to a systematic policy of harassment, discrimination and persecution employed by the authorities. In the interstate application of *Cyprus v. Turkey*, the ECtHR found violations of Articles 3, 9, 10, 11, 13, a

²⁴ Laila Shaelou, S., *The EU and Cyprus*, Leiden, Brill/Martinus Nijhoff, 2010, p. 202.

²⁵ Ministry of Labour and Social Insurance of Cyprus, <http://www.mlsi.gov.cy/mlsi/sid/sid.nsf/All/4CFF4CF947E20998C22577520046A49B?OpenDocument>, retrieved 11 September 2010.

²⁶ See Second Opinion on Cyprus of the Advisory Committee of the FCNM, *op. cit.*, p. 18

continuing violation of Article 1 of Protocol No. 1 and Article 2 of Protocol No. 1.²⁷ Nowadays Greek Cypriots residing in the northern part number less than 454.²⁸

Roma have long been marginalized in the public life of the island. After independence, Roma numbered 502, while current, albeit non-corroborated estimates take the number up to 1,000. 'Officially, neither the Republic of Cyprus in the south, nor the unrecognized Turkish Republic of Northern Cyprus (TRNC, in the occupied northern part of Cyprus), recognize the Roma as a separate ethnic minority group; they are considered to be Turkish Cypriots.'²⁹ However, they are recognized socially as a separate ethnic group.

In its reports to the Advisory Committee, the Republic of Cyprus has stated that: *'although precise figures are not available, it is estimated that 620–650 Cypriot Gypsies [sic.] reside in the Government controlled area.'*³⁰

Its formal status in the domestic legal order remains to be clarified, despite the fact that since 1960 it has continued to be regarded as belonging to the Turkish Cypriot Community, mainly due to the fact that its members opted to move to the north of the island after 1974.

*'The reason for this is believed to be primarily that Cypriot Roma speak the Turkish language and secondarily, because they are of Muslim religious persuasion. It should however be noted that Cyprus Roma who are known in the Turkish Cypriot community as "Kurbet/ Gurbet" have their own unwritten language "Kurbetcha". Apparently, with the passing of time, Turkish has displaced Kurbetcha. The larger groups of Cyprus Roma have settled in the towns of Morphou and Famagusta, towns located in the Turkish occupied area. In the last decade, a large number of Cyprus Roma claiming discrimination and poor employment opportunities in the occupied area have crossed over the division line to the Government-controlled area. They have settled in the city of Limassol and in the vicinity of the city of Polis in the Paphos District. The authorities provide the Cyprus Roma housing, healthcare, a welfare subsidy, schooling for their children as well as employment.'*³¹

In 2001, the European Court of Human Rights, in the interstate application of *Cyprus v. Turkey*, found that individuals who were members of the Roma minority had been subjected to violations of human rights in the areas occupied by the Turkish forces. As pointedly remarked by the Advisory Committee, the Roma minority has not been offered a chance to express its ethnic affiliation freely.³²

²⁷ ECtHR, *Cyprus v. Turkey* (Application no. 25781/94), 10 May 2001.

²⁸ Press and Information Office of the Republic of Cyprus, 'The enclaved', <http://www.moi.gov.cy/moi/pio/pio.nsf/5de55f6f7c7bc484c2257076004d01e3/803883940b86e8d3c2256d6d001eb5ca?OpenDocument>, retrieved 8 February 2011.

²⁹ Trimiklioniotis, N. and Demetriou C., 'The Cypriot Roma and the failure of education', in Varnava et al., *op. cit.*

³⁰ See Second Report submitted by the Republic of Cyprus to the Advisory Committee of the FCNM, *op. cit.*, p. 11.

³¹ See Third report submitted by the Republic of Cyprus to the Advisory Committee of the FCNM, *op. cit.*, p. 21–22.

³² See Second Opinion on Cyprus of the Advisory Committee of the FCNM, *op. cit.*, p. 5.

Housing, education, unemployment and intolerance from the rest of the population are the four main challenges faced by this minority group. Roma interviewees on both sides of the dividing line, who wished to remain anonymous, particularly stressed their sense of belonging to the Turkish Cypriot community and did not insist on their distinct characteristics. Further, they underlined the lack of respect and overt discrimination they experience in their dealings with the authorities on both sides. In the 1990s there was a highly publicized movement of Roma in the north of Cyprus who asserted their right to self-definition, demanded that they be called *Gurbet* rather than *Cingene*, and insisted on their special status as a distinct group within Turkish Cypriot society. Artists, media people, teachers and other 'successful' *Gurbet* people were in the forefront of the movement.

Turkey's policy of colonization since 1975 has resulted in a high number of migrants from Turkey arriving in the northern part of the island. Their presence on the island is a sensitive political issue, meaning that it is difficult to ascertain exactly how many Turkish migrants currently reside in Cyprus. Information released by the Republic of Cyprus states that currently their number is 162,000, while the number of Turkish Cypriots has dropped from 116,000 in 1974 to 88,100 today.³³ Other sources provide different figures: a report by the Peace Research Institute Oslo estimates that 'the total number of TRNC citizens of Turkish-mainland origin currently residing in northern Cyprus is between 32,000 and 35,000 plus offspring' and that 'the total number of Turkish-originated temporary residents (non-citizens) is estimated (for 2005) at about 102,000'.³⁴ It should be noted that there are now young people who are second- and third-generation descendants of migrants from Turkey, who consider themselves to be Cypriots, and this of course impacts on the numbers suggested by both sides as to who is considered to be a migrant from Turkey. A number of migrants from Turkey have been granted 'citizenship' rights by TRNC authorities, thus creating a paradox that Turkish Cypriots now number fewer than settlers. In addition, there are Kurds, Bulgarians of Turkish origin, and Alevi who have also migrated to Cyprus from Turkey.

In addition to migration from Turkey, immigration flows from other countries in the EU, and beyond, have risen significantly in the past two decades. The main groups are citizens from other EU countries (72,264 in 2009),³⁵ and third-country nationals, mainly consisting of Filipinos, Vietnamese, Indians, Sri Lankans, Palestinians, Iranians and Russians, who altogether totalled 65,597 in 2009.³⁶ In a press conference held on 11 November 2010, the Minister for the Interior stated that the total number of Third Country Nationals residing in the southern part of Cyprus is around 100,000; of these, 66,000 reside legally, half of whom

³³ *Ibid.*; see also <http://www.moi.gov.cy/moi/pio/pio.nsf/All/64D1EBF5E4CDD878C2256D7A003CB539?OpenDocument>, retrieved 11 September 2010.

³⁴ Hatay, M., *Beyond Numbers: An Inquiry into the Political Integration of the Turkish 'Settlers' in Northern Cyprus*, Nicosia, PRIO, http://www.prio.no/upload/345/beyond_numbers_reduced.pdf, p. viii.

³⁵ Polykarpou D., *Country Report 1: Cyprus*, Nicosia, Network of Socio-Economic Experts in the Non-Discrimination Field (SEN), April 2009.

³⁶ *Ibid.*

work as domestic workers. Additionally, he mentioned that there are 97,645 EU nationals resident on the island.³⁷

The Republic of Cyprus approaches the issue of migration as a national security threat, which puts a strain on its resources.³⁸ In this respect, the Advisory Committee of the FCNM has warned that:

*‘the situation of non-nationals, who find themselves particularly vulnerable to intolerance, racist manifestations and discrimination, is a serious cause of concern and requires immediate action.’*³⁹

And:

*Too little is being done by the authorities to protect non-nationals (legal immigrants, illegal immigrants and asylum-seekers) and [the Advisory Committee] considers that these persons’ situation is a serious cause for concern.... The Advisory Committee is concerned about the situation in which asylum-seekers continue to find themselves, especially as regards detention, access to the asylum procedure, protection against refoulement, access to legal aid, and the conduct of the police towards them.’*⁴⁰

Migrant groups share common difficulties and obstacles in both parts of the island. In the northern part of Cyprus, Alevis – adherents to the Alevi Shi’a sect of Islam – have long been requesting that the TRNC provide a ‘cemevi’ (i.e. a place of worship) or financial support to build one, where they would be able to follow the worship practices of their sect. This has not been granted. Alevis have also protested against the introduction of religious education in schools, because the teaching of Sunni Islam does not correspond to their beliefs. Their religious identity has given rise to suspicion and has resulted in Alevis having problems in obtaining TRNC ‘citizenship’.

Bulgarians of Turkish origin living in northern Cyprus experience social pressure not to speak Bulgarian in public.

The same holds for individuals of Kurdish origin. Older members of the community have difficulties accessing public services, because they are unable to speak Turkish. In addition, Kurds also encounter other problems. Police in northern Cyprus monitor Kurdish communal activities, such as social and political gatherings, and Kurdish interviewees reported that they cannot celebrate Newroz.⁴¹

³⁷ In *POLITIS* newspaper, 11 November 2010, p. 37, <http://www.politis-news.com>, retrieved 12 November 2010.

³⁸ See Third Report submitted by the Republic of Cyprus to the Advisory Committee of the FCNM, *op. cit.*, p. 25.

³⁹ See Second Opinion on Cyprus of the Advisory Committee of the FCNM, *op. cit.*, pp. 5–6.

⁴⁰ *Ibid.*, p. 19.

⁴¹ Newroz (spring festival) is celebrated across the Middle East and Central Asia. For Kurds, it is the most important holiday, and has political as well as cultural significance.

Members of Kurdish groups have also encountered serious problems in creating civil society organizations, violating their right to freedom of association.

At the same time, south of the Green Line, newer groups of migrants also experience a range of serious problems.⁴² Bulgarians and Russians, who constitute sizeable groups within Greek Cypriot society, experience particular discrimination in the field of work.

Cyprus is also a destination country for trafficking in persons, many of whom end up working in the entertainment industry or as domestic workers.⁴³

4. Attitudes and perceptions on diversity and discrimination in the Cypriot society⁴⁴

According to the findings of the European Social Survey, Cypriot Society is dominated by deep conservatism in terms of social relations and religion. Concurrently, the findings of the survey show a remarkable deficit in social cohesion, along with the boost of racism and xenophobia.⁴⁵ The term “Cypriot Society”, in this report refers to the people living in the areas of the Republic controlled by the Cypriot Government. Under the existing de facto situation it is impossible to include and refer to the whole territory and Society of the Country.

According to a survey carried out in May 2007 by the Office of the Ombudsman, two out of three Cypriots do not have close friendships with individuals of other religions. The majority of citizens do not know that laws exist prohibiting religious discrimination in employment. The majority of Cypriots stated that Islam leads by its nature to extreme behaviour.⁴⁶

In relation to sexual harassment in the workplace, the majority of those surveyed in July 2007 adopted the argument that when a woman dresses “provocatively,” she can be the cause of her sexual harassment.⁴⁷

⁴² European Commission against Racism and Intolerance (ECRI), Third Report (2005), http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_03/03_CbC_eng/CYP-CbC-III-2006-17-ENG.pdf, retrieved 25 October 2010.

⁴³ United States Department of State, *Trafficking in Persons Report 2009 – Cyprus*, <http://www.unhcr.org/refworld/country,,USDOS,,CYP,4562d8b62,4a4214c2c,0.html>, retrieved 26 October 2010.

⁴⁴ The main content of this session is reproduced from a report entitled “*Minority Rights: Solutions to the Cyprus Conflict*”, published in March 2011. The report was written by Nicolas Kyriakou and Nurcan Kaya on behalf of the Minority Rights Group International & KISA – Action for Equality, Support and Anti-Racism. <http://www.minorityrights.org/?lid=10663> (retrieved 11 August 2013) and the *Country Report 1: Cyprus*, Nicosia, Network of Socio-Economic Experts in the Non-Discrimination Field (SEN). The report was written by Doros Polykarpou in April 2009. The

⁴⁵ Center for Applied Research: *European Social Survey*. European University, Cyprus: Nicosia, 2007. See: <http://pdf.philelefttheros.com/PdfEdition/Issues/Archive.aspx>, retrieved 13 August 2013.

⁴⁶ Cyprus College Research Center: *Attitudes and beliefs of Greek Cypriots towards people with different religious convictions and affiliations who live in Cyprus*. Nicosia, 2008.

⁴⁷ Cyprus College Research Center: *Social Attitudes and beliefs towards sexual harassment at work*. Nicosia, 2008.

In another survey, conducted in January 2005, regarding social attitudes and beliefs towards homosexuality, 93% of the responders considered the possibility that their child be looked after or taught by a homosexual person to be a major problem. The majority of the responders were also against the rights of homosexuals to get married.⁴⁸ These results are reflected also in the special Euro-barometer on Discrimination in the EU⁴⁹, as well as in the European Union's Fundamental Rights Agency 2nd report on Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the Member States.⁵⁰

According to the findings of the European Social Survey, Cypriots do not believe that migrants contribute positively to the economy while, at the same time, they believe that their presence undermines the cultural life and traditions of Cypriot society.⁵¹ In a survey conducted by the Focus Consultants in 2007, the vast majority of the responders declared that Pontians (people with Greek background from the Caucasus area) seriously contributed to criminality, unemployment of Cypriots, and the increase of drug abuse in Cyprus. The vast majority they do not consider them Greeks and consider them unfriendly.⁵²

In the special Euro-barometer on Discrimination in the EU, Cyprus had the lowest results of any country regarding the comfort levels in dealing with someone from a different ethnic origin than that of the majority of population holding the highest political office in Cyprus.⁵³

In February 2008, the student magazine *Click* presented a Gallop Poll amongst students from all higher education institutions in Cyprus. According to the magazine, 90 % of the responders "expressed their fear and anxiety" about migrants and the "negative consequences for the students' future" due to the presence of the migrants.⁵⁴

Diversity as a notion is not defined in the public discourses, whereas it is not clear on how it is understood and perceived by the society at large. It is linked more to multiculturalism, which is a more acceptable notion, leaving thus aside ethnic or religious diversity which are the source of more controversy, mainly because of the Cyprus problem. Recent socio-

⁴⁸ Cyprus College Research Center: *Social Attitudes and beliefs towards homosexuality*. Nicosia, 2007.

⁴⁹ Special Eurobarometer 296: *Report – Discrimination in the European Union Q Perceptions, Experiences and Attitudes 2008*. Brussels: 200. See: http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_en.pdf, retrieved 13 August 2013.

⁵⁰ European Union Agency for Fundamental Rights: *Homophobia and Discrimination on grounds of sexual orientation and Gender Identity in the Member States : Part II – The social Situation*. 19 March 2009. See: http://fra.europa.eu/fraWebsite/attachments/FRA_hdgso_report-part2_en.pdf, retrieved 13 August 2013.

European Union Agency for Fundamental Rights: *Homophobia and Discrimination on grounds of sexual orientation and Gender Identity in the Member States : Part II – The social Situation, Summary Report*. March, 2009. See: http://fra.europa.eu/fraWebsite/attachments/hdgso_part2_summary_en.pdf, retrieved 13 August 2013.

⁵¹ Center for Applied Research: *European Social Survey*. European University, Cyprus: Nicosia, 2007. See: <http://pdf.phileleftheros.com/PdfEdition/Issues/Archive.aspx>, retrieved 13 August 2013.

⁵² Focus Consultants: *Social Attitudes and reactions of Greek Cypriots towards Pontians*. Nicosia, 2007.

⁵³ Special Eurobarometer 296: *Report – Discrimination in the European Union Q Perceptions, Experiences and Attitudes 2008*. Brussels: 200. See: http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_en.pdf, retrieved 13 August 2013.

⁵⁴ Click Magazine: *T.P.S. Trust Media Publishing*. Nicosia, February 2008.

economic and political developments have led to an increase of the ethnic, linguistic, cultural and religious diversity of its population. The transformation of Cyprus from a sending to a host country of migrants as from the early 1990s, the partial lifting in 2003 of the restrictions of movement of persons across the Green Line between north and south, the accession of Cyprus to the EU in 2004 and the free movement of EU nationals henceforth, have all led to this increase of the population's ethnic, linguistic, cultural and religious diversity which was added to the gender, age and disability diversity already existing but not always recognized as such in the society. These huge changes have created significant challenges for the Cypriot society at large and in all aspects of the daily lives of Cypriots as well as for the various institutions and the media.

Diversity has always been difficult to comprehend, accepted and valued within the Cypriot society. With its record of widespread and ever growing discrimination, which is amply testified to by a number of surveys and research studies, and the prevailing narrow and inward-looking outlook developed as a result of the protracted national problem, Cyprus has at least until recently concerned itself with diversity in only some of its aspects. Public debate about diversity and its benefits has been sporadic and segmental, focusing mainly on gender, age and disability, unable to face the challenges of an increasingly more diverse society in other respects too. To the public imagination in the government-controlled areas of Cyprus, the concept of equality for all refers predominantly to the Greek Cypriot members of the society and at best the Turkish Cypriots living there because they are citizens. This limited notion of equality and the accompanying limited acceptance of diversity are concomitant with the a priori discrimination against migrants, especially third country nationals. Similarly, government initiatives have for years been negative as to the acceptance of migrants and at best confined to lip service and makeshift policy statements and declarations aiming mainly to meet the country's European obligations or political correctness, while media coverage has been in the main limited to reporting speeches and addresses of government officials at events and other activities organised for celebrating diversity.

The majority of the media, one of the most influential actors in the formation and reconstruction of values, opinions, and attitudes in the society, reproduces the above picture without reflection, contrary to their professional code of conduct.⁵⁵ With some exceptions, the majority of the media is inundated with xenophobic, racially biased reporting and coverage. Migrants are “demonised, stereotyped, and stigmatised, and systematically projected as a potential threat to public safety and social cohesion. They are portrayed as the source of all social and economic evils: everything from unemployment to low wages, from the proliferation of divorce to the increase of crime. In most reports involving migrants, the media simply adopts the views of the authorities, including the police, or of society at large, which generally perceives them as uncivilised. Migrants are

⁵⁵ The Union of Journalists: *The Journalist's code of practice*, Nicosia, April 1997. See: http://www.cmcc.org.cy/code_pradice2.html, retrieved 13 August 2013.

seen as the Savage Other,⁵⁶ and in many cases they are attributed non-human aspects. Very rarely are migrants or their organisations given the opportunity to present their views on matters directly affecting them or to defend themselves.⁵⁷

As a rule, refugees from Iraq, Somalia and the occupied areas of Palestine, are referred to as “Lathrometanastes”, a word which exists only in the Greek language, meaning a combination between “illegal” and “self-smuggled” migrant. In some media, migrants and refugees are described as “agents” of the Turkish intelligent services and who are sent on purpose to Cyprus on a specific agenda, to change the demographics of the island.⁵⁸

Institutional discrimination and racism is of serious concern in Cyprus. According to a survey conducted by RUBSI, 47% of the participants reported having encountered institutional discrimination and 63% reported discrimination and prejudice on a ‘daily basis’⁵⁹.

A second research conducted in 2007 among asylum seekers concluded that 35% of the beneficiaries experienced racism by the Authorities, and 42% experienced racism from Cypriot citizens. Asylum seekers from Asian countries experienced to 50% racism by the Authorities and 54% by Cypriot Citizens⁶⁰.

5. The migration model of the Republic of Cyprus

Discrimination on grounds of ethnic origin or religion is also quite relevant to the position of the migrant population in Cyprus. Migrant populations consists of third country (Non EU or

⁵⁶ Sainsbury, Sondra, *The Silent Presence: Asian Female Domestic Workers and Cyprus at the New Europe in Performing Identity/ Crossing Borders* Conference (May 2007). See:

http://research.tru.ca/ciac/media/sainsbury_2007.pdf, retrieved 13 August 2013

⁵⁷ Papadopoulou, Anthoula & Kossiva, Andriana & Polili, Oncel. *Racism in Cyprus: ENAR Shadow Report 2007*. ENAR: Nicosia 2008. See: <http://cms.horus.be/files/99935/MediaArchive/national/Cyprus%20%20SR%202007.pdf>, retrieved 13 August 2013

⁵⁸ Phileleftheros Newspaper: *160.00 have reached the foreigners in Cyprus*. Nicosia, 13.11.2007. See:

<http://www.philenews.com/main/default.aspx>, retrieved 13 August 2013.

Simerini Newspaper: *Drugs and Illegal Migration*. Nicosia, 13.7.2008. See: www.simerini.com.cy, retrieved 13 August 2013.

Maxi Newspaper: *Protest Event against the settlement of occupied areas and the illegal migration*. Nicosia 10.07.2008. See: <http://www.maxinewspaper.com/index.php?category=4>, retrieved 13 August 2013.

Politis Newspaper: *Migration: Open Letter to Mr. Sylikiotis*. Nicosia, 13.07.2008. See: <http://www.politis-news.com/>, retrieved 13 August 2013.

Politis Newspaper: *Vagabonds and thieves excursion from abroad for ... work in our country*. Nicosia, 26.9.2008. See: <http://www.politis-news.com/>, retrieved 13 August 2013.

⁵⁹ RUBSI / Research Unit in Behavior & Social Issues: *Policy and Practise – Ethnicity and Race in Contemporary Cyprus*. 19 December 2007, Cyprus.

See: <http://www.rubsi.org/od/en/ethnicity%2Dand%2Drace%2Din%2Dcontemporary%2DCyprus/>, retrieved 13 August 2013

⁶⁰ Micharikopoulos, Dimitris G. *Behind the Mirror, Social Rights and Characteristics of the Asylum Seekers in Cyprus*. Papazisi: Athens, 2009.

Cy citizens) migrant workers, asylum seekers and persons under international forms of protection, victims of trafficking, migrants who are members of families of citizens of Cyprus or another EU country and migrants without papers.

Cyprus has followed a very rigid migration model since the 1990's, developed on the basis of the Council of the Ministers' decision 33.210, which was undertaken on the 15th March 1990. The criteria and the procedure for granting of an approval for work permit were finally approved by the Council of Ministers on the 6th of December 1991.⁶¹ It also has to be noted that the decisions in relation to the implementation of this model are taken by the Ministerial Committee for the Employment of Foreigners and its decisions are not published in the official gazette of the Government.

Following the Decision 33.210, in 2004, the government of the Republic of Cyprus decided to give a priority for employment to the citizens of EU countries which were still under the process of accession (namely from Bulgaria and Romania). This decision was taken with the agreement of all social partners and most importantly trade unions. This was clearly a discrimination policy aiming to reduce the employment of third country nationals coming from non-EU countries, as both Bulgaria and Romania were already entering the final stage of their accession to the EU. Furthermore, this discrimination was based on the criteria of ethnicity and religion, as the citizens of these countries are considered as "Europeans and Orthodox Christians".

In 2007, the government of the Republic of Cyprus adopted the "Strategic Plan for the Employment of Foreigners in Cyprus". This new policy strategy was actually based on the criteria and procedures set out through the Ministerial Decision 33.210, in an effort to cover the gaps of the previous policy measures and serve as the first comprehensive policy tool on migration and employment in Cyprus. The adoption of the strategic plan for the employment of foreigners was considered as necessary after the adoption and implementation of the Ministerial Decision. The strategy was focused on three areas: 1) a controlled and targeted approach, 2) the criteria governing the terms and conditions of employment, and 3) the procedures for the reception and deportation of immigrants.⁶²

⁶¹ Department of Labour, *Criteria for Employment*. See:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmlcriteria_en/dmlcriteria_en?OpenDocument, retrieved 12 August 2013.

⁶² Press and Information Office, 5th of January 2007, Ο Υπουργός Εσωτερικών προήδρευσε σύσκεψης της Υπουργικής Επιτροπής για θέματα αλλοδαπών και μετανάστευσης. See:

<http://www.moa.gov.cy/moi/PIO/PIO.nsf/60f24dd3d8b73c09c2257076004d01c9/966c08583bda324dc225725a004c48a9?OpenDocument&print&print&print&Click=>, retrieved 12 August 2013. Ministry of Labor and Social Insurance, Μάιος 2008, *Εγκύκλιος για την υλοποίηση της στρατηγικής απασχόλησης ξένου εργατικού δυναμικού στην Κύπρο*. See: [http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/All/C31FC6B5DBBFAFD0C2256DB100436800/\\$file/%CE%A3%CF%84%CF%81%CE%B1%CF%84%CE%B7%CE%B3%CE%B9%CE%BA%CE%AE%20%CE%B3%CE%B9%CE%B1%20%CF%84%CE%B7%CE%BD%20%CE%91%CF%80%CE%B1%CF%83%CF%87%CF%8C%CE%BB%CE%B7%CF%83%CE%B7%20%CE%9E%CE%AD%CE%BD%CE%BF%CF%85%20%CE%95%CF%81%CE%B3%CE%B1%CF%84%CE%B9%CE%BA%CE%BF%CF%8D%20%CE%94%CF%85%CE%BD%CE%B1%CE%BC%CE%B9%CE%BA%CE%BF%CF%8D.pdf](http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/All/C31FC6B5DBBFAFD0C2256DB100436800/$file/%CE%A3%CF%84%CF%81%CE%B1%CF%84%CE%B7%CE%B3%CE%B9%CE%BA%CE%AE%20%CE%B3%CE%B9%CE%B1%20%CF%84%CE%B7%CE%BD%20%CE%91%CF%80%CE%B1%CF%83%CF%87%CF%8C%CE%BB%CE%B7%CF%83%CE%B7%20%CE%9E%CE%AD%CE%BD%CE%BF%CF%85%20%CE%95%CF%81%CE%B3%CE%B1%CF%84%CE%B9%CE%BA%CE%BF%CF%8D%20%CE%94%CF%85%CE%BD%CE%B1%CE%BC%CE%B9%CE%BA%CE%BF%CF%8D.pdf), retrieved 12 August 2013.

Once again, the governmental policy was supported by the trade unions, who considered it as a step towards the control and reduction of foreigners working in Cyprus.⁶³

The migration model is based on temporary residence. Currently it is set at four years maximum, with exceptions in case of domestic workers taking care of the elderly or ill persons or persons with disabilities. The migrants are linked to a specific job for a specific employer. The employer must prove that Cypriots or EU nationals are not interested in the particular job in order to be approved for the employment of a foreign national. In case the employer has to release employees, the employer is obliged to release first, the third country nationals. Third country nationals who lose their jobs then lose their resident permits and they have to leave Cyprus immediately without the right to seek new employment otherwise they face deportation. The system of recruitment and the replacement of the third country employee is operated and controlled by private agencies. These agencies offer low quality services and often are accused of violations of the rights of the employees and in some cases even for trafficking in human beings.

Third country employees do not have full and equal access to the health system and services. Third country nationals, unlike Cypriots and EU Citizens cannot access the health system and welfare services according to the rate of their incomes. The access to health is based for third country nationals on private health insurances. The costs are covered 50% by the third country employee and the other 50% by the employer. These insurances are very basic and their beneficiaries do not enjoy equal access to the health system and services.

The only rights recognised under the law on an equal basis as Cypriots and EU nationals are labour rights. This model has created two parallel and segregated worlds: one for Cypriots and EU nationals and the other for third country migrants. This in itself excludes migrants from any integration measures, from operating in a free labour market, and from being valued and taken into account when measures are taken or policies are decided which relate to social inclusion and non-discrimination. The third country employees not only are excluded from an equal basis treatment in employment and social policy, but they are also seen as a reserve army to boost the economy and fill the employment gaps. Concurrently, they are seen as a potential threat for the efforts to increase the participation of vulnerable groups such as young persons and women. It is therefore important to note that in the official statistics on unemployment, poverty, or those relating to other disadvantaged groups such as persons with disabilities, third country migrants are not included. This is an

⁶³ Pancyprian Federation of Labour, *Απόφαση Γενικής Συνέλευσης ΠΕΟ για τους αλλοδαπούς εργαζομένους*. See: <http://www.peo.org.cy/gr/index.php/photografikoiliko/15-teleutesdrastiriotites/detail/246-apergia-la-mode?tmpl=component>, retrieved 12 August 2013. Pancyprian Federation of Labour, *Απασχόληση εργαζομένων από τρίτες χώρες στην Κύπρο*. See: <http://webcache.googleusercontent.com/search?q=cache:bzD6mkf1xXQJ:www.peo.org.cy/gr/index.php/photos11/9-1may2011/detail/632-img4875%3Ftmpl%3Dcomponent+&cd=4&hl=en&ct=clnk>, retrieved 12 August 2013.

aspect that should be considered seriously when evaluating the situation of discrimination issues in Cyprus.

The Government of Cyprus, in an effort to address the consequences of the global economic crisis on Cyprus, has taken several measures related to employment and social policies: intensification of the efforts of the public labour offices to place more unemployed Cypriots into work, introduction of accelerated vocational training programmes for workers in sectors facing reduction of their annual turnover because of the crisis as well as for unemployed workers, focusing more on the hotel and construction industries, intensified checks and controls at employment places to combat “illegal” and undeclared work, strict application of the criteria and approvals for the employment of third country nationals,⁶⁴ as well as promotion of various schemes to motivate employers to “replace” third country migrant workers with Cypriot and EU nationals, and finally implementation of an action plan for the support of internal tourism by co-financing the holidays of low income workers, pensioners and persons receiving welfare benefits.⁶⁵

It has to be noted, however, that the Government’s scheme for the “replacement” of third country nationals is in itself discriminatory as it essentially implies dismissals of third country nationals on the basis only of their nationality, leading those most vulnerable to racial, ethnic and often religious discrimination, to unemployment, losing their legal status in the country and eventually falling in an irregular situation, as a result of which they will be in the margins of the society and more vulnerable to further discrimination.

⁶⁴ In line with European Union immigration law, third country nationals in this report refer to all nationals of states non members to the European Union and the European Economic Area.

⁶⁵ Γραφείο Τύπου και Πληροφοριών, 24/02/2010, «Ομιλία της Υπουργού Εργασίας και Κοινωνικών Ασφαλίσεων, κας Σωτηρούλας Χαραλάμπους, στην Ημερίδα του Ινστιτούτου Εργασίας Κύπρου – ΠΕΟ, με θέμα ‘Οικονομική Κρίση και Κοινωνική Δικαιοσύνη’, στην Λευκωσία» (Press and Information Office, 24/02/2010, “Speech by the Minister of Labor and Social Insurances, ms Sotiroula Charalambous, at the seminar organized by the Cyprus Labor Institute – PEO, entitled ‘Economic Crisis and Social Justice’, in Nicosia”). See:

<http://www.moi.gov.cy/moi/pio/pio.nsf/0/ADB04DD4024CDBAEC22576D4006118CF?OpenDocument>, retrieved 13 August 2013.

Υπουργείο Εργασίας και Κοινωνικών Ασφαλίσεων, 26/05/2012, «Χαιρετισμός Υπουργού Εργασίας και Κοινωνικών Ασφαλίσεων, κας Σωτηρούλας Χαραλάμπους, στην 17^η Ετήσια Γενική Συνέλευση της Ομοσπονδίας Συνδέσμων Εργολάβων Οικοδομών Κύπρου (ΟΣΕΟΚ)» (Ministry of Labor and Social Insurances, 26/05/2012, “Speech by the Minister of Labor and Social Insurances, ms Sotiroula Charalambous, in the 17th Annual General Meeting of the Federation of Associations of Building Contractors Cyprus - OSEOK”). See:

<http://www.mlsi.gov.cy/mlsi/mlsi.nsf/All/F35C4451F6378960C2257A0C002BCF24?OpenDocument>, retrieved 13 August 2013.

SigmaLive – InBusiness News, 29/06/2010, «Γάγγραινα η παράνομη και αδήλωτη εργασία» (SigmaLive – InBusiness News, 29/06/2010, “Illegal and undeclared labour is turned into a gangrene”). See:

<http://sigmalive.com/inbusiness/news/management/281343>, retrieved 13 August 2013.

SigmaLive, 20/05/2013, «Επιτροπή Εργασίας: Μέτρα για εργασία και καθορισμός προσόντων» (SigmaLive, 20/05/2013, “Labor Committee: Measures on unemployment and specification of qualifications”). See:

<http://www.sigmalive.com/news/politics/46179>, retrieved 13 August 2013.

Επίτροπος Διοικήσεως, Αρ. Φακ. Α/Π 1409/2010, «Έκθεση της Επιτροπής Διοικήσεως σχετικά με την αναθεώρηση του συστήματος εξέτασης καταγγελιών για παράνομη εργοδότηση». See:

<http://webcache.googleusercontent.com/search?q=cache:3Ur8vncTVIYJ:www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/92449D9D07067183C2257987002FB3BF/%24file/1409.2010-20122011.doc%3FOpenElement+&cd=3&hl=en&ct=clnk>, retrieved 13 August 2013

6. Current developments in the light of the economic crisis and the government change

The period under review but especially the last few years have been characterised by a regression into previously unthinkable patterns and levels of human rights abuse, xenophobia, discrimination, racism, racist violence and hate crime, targeting mainly migrants, asylum seekers and refugees, especially with Muslim religious background, but also Turkish Cypriots, other ethnic communities and minorities, such as the Roma, NGOs supporting and advocating for the rights of migrants, and human rights defenders.

In the aftermath of the Annan Plan referendum in April 2004⁶⁶ and during Demetris Christofias's presidency (2008-2013), nationalism acquired a new legitimacy, largely because of the opposition of nationalists to a federal solution to the Cyprus problem identified with the said government, a solution that was perceived to be "anti-hellenic"⁶⁷. Notwithstanding the fact that, as it finally transpired, the Christofias government did not promote any solution, the nationalists did make extensive use of this pretext for promoting their propaganda.

This altogether adverse narrative is evidenced by the escalating increase of populist ethnocentric and openly racist discourse and practices of extreme right and neo-nazi parties and groupings, such as ELAM⁶⁸, which maintains close links to the Greek Golden Dawn and the NPD Nazi Party in Germany. In fact, so close are the ties between the two that ELAM is at times referred to as the Golden Dawn of Cyprus.

Other far right and nationalist groups, with clearly anti-migrant agendas, such as KEA⁶⁹, PAK and other extreme right groups⁷⁰, also scapegoat migrants and asylum seekers, with a particular focus on Muslims, and blaming them for all ills and problems faced by Cyprus, from the economic crisis and escalating unemployment, rising criminality, and for being 'scroungers' on the welfare state. In addition, ELAM, KEA and other such groupings make an explicit connection between asylum seekers and irregular migrants with Turkey, developing a narrative that purports to link the 1974 events with a different kind of "invasion", this time by irregular migrants and asylum seekers organised and supported by Turkey to change the demographic map of Cyprus and to Islamise it.

KEA, along with its fellow collaborators and with the participation of a member of the House of Representatives and a local councillor, was the leading force in the attack, on 5

⁶⁶ A UN proposal for the solution of the Cyprus problem. A referendum was rejected by 76% of Greek Cypriots and supported by 65% of Turkish Cypriots. http://www.hri.org/docs/annan/Annan_Plan_Text.html

⁶⁷ The basic tenets of nationalism in the Greek Cypriot community are that Cyprus is Greek, it belongs to the Greek Cypriots alone, who are part of the "great Hellenic [Greek] nation", and that it should be a "pure" Greek state. In this context, even the notion of "Enosis" [union with Greece, the "mother country"], seemingly a historical relic of pre-1974 times, has been revived and commemorated, as was the case on 15 January 2013, when ELAM marched through the main streets of Nicosia, clad in army gear and armed with helmets, clubs and shields.

⁶⁸ ELAM (Ethniko Laiko Metopo – National Popular Front).

⁶⁹ KEA (Kinima Ellinikis Antistasis – Greek Resistance Movement) <http://antistasi.org/?p=11383>

⁷⁰ PAK (Cyprus Anti-Occupation Movement), and "Movement for the Salvation of Cyprus"

November 2010, on the *Rainbow Festival*, the largest multicultural anti-racist event in Cyprus, organised annually by KISA in cooperation with migrant and refugee communities, bi-communal and other human rights organisations and under the motto “Cypriots and Migrants United Against the Crisis”. KEA and the other racist and nationalist groups attacked the *Rainbow Festival*, bearing slogans against Turkish Cypriots, Jews, Muslims, people under international protection, irregular migrants and against KISA (which they routinely refer to as “a fifth columnist” and “axe and fire to KISA’s dogs”).⁷¹ The attack on the Festival, which was sponsored and supported by the Cyprus Youth Board, the European Commission Representation in Cyprus, the Ombudsman’s Office and the Mayor of Larnaca, ended with, among others, the attempted murder of a Turkish Cypriot musician who was hospitalised with serious knife wounds, the beating and wounding of another Turkish Cypriot musician, assault of a number of migrants, in many cases with serious bodily harm, risk to the bodily integrity of many children and women, as well as considerable material damages. In addition, about five months after the event, the police attempted to criminalise KISA by prosecuting Doros Polykarpou, its Executive Director and a staunch human rights defender, on the charges of “rioting and participating in an illegal assembly”⁷², punishable with 3 years’ imprisonment. After a protracted trial and with the support and solidarity of many international and European agencies and NGOs, Doros Polykarpou was finally acquitted on 5 June 2012. In the words of the coalition of the supporting organisations, “... the accusations were manifestly false and represented only the most recent in a series of attempts⁷³ by the Cypriot authorities to silence KISA ... We regret the charges were not withdrawn before such a lengthy trial took place.”⁷⁴ To date, there has been no police or other inquiry as to the attack on the *Rainbow Festival* and its aftermaths, nor has there

⁷¹ Observatory for the Protection of Human Rights Defenders, “Annual Report 2011: Europe and the Commonwealth of Independent States”, p. 397 and 399-400. See: http://www.fidh.org/IMG/pdf/obs_2011_uk-europecis.pdf

⁷² In the course of the trial, the police prosecutor dropped the second charge without any explanation but it was clear that it could not stand in court as KISA had obtained all relevant permissions.

⁷³ Indeed, this is one of many persecutions and attempts to criminalise, silence and financially strangle KISA by the police and other authorities, including at least five other court prosecutions, which were either dropped or dismissed, two disciplinary cases against a lawyer – member of the Steering Committee and another member of the S.C., intimidation and harassment of other Steering Committee members, other members and volunteers of KISA, refusal by the Asylum Service to pay KISA the amount of €65000, which had already been spent for the implementation of project under the ERF Programme, despite contrary recommendations of the Ombudsman’s Office, etc.

⁷⁴ European Association for Human Rights/ Association Européenne des droits l’Homme (AEDH), Euro-Mediterranean Network for Human Rights, European Network Against Racism, Fahamu Refugee Legal Aid Programme, Front Line Defenders, Migreurop, Observatory for the Protection of Human Rights Defenders and Platform for International Cooperation on Undocumented Migrants, “Press Release – Cyprus false accusation confirmed: Judge drops all charges against human rights defender Doros Polykarpou”. See: <http://frontlinedefenders.org/node/18563>, retrieved 13 August 2013

Η Σημερινή, 06/06/2012 «Εξ’ Αφορμής: Μοντέλο μετανάστευσης για σκλάβους», See:

<http://www.sigmalive.com/simerini/columns/eks%20aformis/495778>, retrieved 13 August 2013

Η Σημερινή, 06/06/2012, «Αθώος ο Δώρος Πολυκάρπου για τα επεισόδια στις Φοινικούδες». See:

<http://www.sigmalive.com/simerini/news/local/495777>, retrieved 13 August 2013

SigmaLive, 05/06/2012, «Αθώωθηκε ο Πολυκάρπου για τα επεισόδια στις Φοινικούδες». See:

<http://www.sigmalive.com/news/local/495715>, retrieved 13 August 2013

Cyprus Community Media Center (CCMC), 06/06/2012, “Case closed: Charges dropped against Doros Polykarpou and KISA”. See: <http://cypruscommunitymediacentre.wordpress.com/2012/06/06/case-closed-charges-dropped-against-doros-polykarpou-and-kisa/>, retrieved 13 August 2013

Cyprus Community Media Center (CCMC), 03/06/2012, “Special report: KISA persecution”. See:

http://www.cypruscommunitymedia.org/index.php?option=com_content&view=article&id=385%3Aspecial-report-kisa-persecution&catid=63%3Acivil-society-news&Itemid=80&lang=en, retrieved 13 August 2013

been any investigation as to the attempted murder of the Turkish Cypriot musician, who is suing the Cypriot government for failing to protect him and to do him justice in relation to the hate crime against him. The government, obviously embarrassed by both the attack on the Festival and the police prosecution against KISA, adopted a stance of “equal distance” between anti-racist, human rights organisations, on the one hand, and the self-proclaimed far right, nationalist, neo-Nazi parties and groupings, on the other. It is noted that this stance is routinely adopted in instances of attacks and/or confrontation between the two.

Of equal concern is the fact that the ethnocentric and racist narrative outlined above, whether open or disguised, has gradually but steadily found its way on the agenda of the majority of political parties, the Church, other power centres and figures, such as the Archbishop who, on more than one occasions, lent his open support to ELAM and stated that “he has no disagreement with ELAM and its lads”.⁷⁵ A handful of individual politicians, with openly populist anti-migrant and nationalist agendas, hide behind their parliamentary immunity in dispersing threats and spreading unfounded rumours and accusations against human rights and anti-racist organisations and human rights defenders. They also enjoy popularity with the mass media, both press and electronic, which in their majority abundantly and readily report, promote and/or orchestrate this extremely negative racist and nationalist discourse. There seems to be at least a tacit agreement if not outright collusion by mainstream media and most political parties from centre to right that the political discourse, as articulated by ELAM and other far right nationalist groups, is not only acceptable but actually desirable and therefore promoted as the mainstream narrative. While, on the one hand, they sometimes portray ELAM and other such groupings as ‘dangerous groups of thugs’ or ‘misinformed but understandably frustrated citizens’, on the other hand, in the name of freedom of expression, they always provide them with a platform for airing their views.⁷⁶

In view of the onslaught of the economic crisis, especially as from the agreement with the Troika, and the accompanying climate of insecurity and fear for the future, this discourse is gaining ground among the general public that is becoming increasingly intolerant and in need of scapegoats⁷⁷. An example of this is a comment posted on-line recently by a newspaper reader for the rape and brutal beating of a Polish woman, abandoned semi-conscious on a country road, that “she had it coming to her” and “the killing of a cat [that had been also reported the same day] is more important”, while there was a repeated call by a number of other readers to “deport all foreigners”⁷⁸.

⁷⁵ SigmaLive, 30/12/2010, «*Αρχιεπίσκοπος: Δεν είμαι σοβινιστής και δεν ταυτίζομαι με το ΕΛΑΜ*», See: <http://www.sigmalive.com/news/local/340952>, retrieved 13 August 2013

⁷⁶ Η Σήμερινή, 15/07/2012, «*Εξ’ αφορμής: Δεν τους είπε με το όνομα τους*». See: <http://www.sigmalive.com/simerini/columns/eks+aformis/506818>, retrieved 13 August 2013
SigmaLive, 25/01/2012, “*Φως σε ‘Μεταναστευτικό και Επιδόματα’, ρίχνουν απόψε τα 60 λεπτά*». See: <http://www.sigmalive.com/news/458748>, retrieved 13 August 2013

⁷⁷ <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/cyprus/CYP-CbC-IV-2011-020-ENG.pdf>

⁷⁸ Filelefttheros on line, <http://www.philenews.com/el-gr/top-stories/885/156131/agrios-viasmos-37chronis-sti-lemeso>

This situation is the result of years, initially, of denial and, subsequently, of inaction and lack of the necessary political will and determination on the part of successive governments to come to grips with it and confront it systematically and effectively. Such a determination and political will would entail not only adoption but most importantly implementation of specific policies, systems, mechanisms and measures, as recommended in this Alternative Report, to address the problem at its root, which is first and foremost the migration model, policies, structures and administrative practices in place and which, effectively unaltered for more than two decades since its adoption in the early 1990s, relegates migrants to the margins of society, a source of cheap labour to be exploited and disposed of at will. This migration system is also responsible for the systemic discrimination against migrants and their exclusion from all but nominal integration measures and their marginalisation.

Instead, largely in view of the economic crisis and in line with the above negative narrative, without any consideration for the rule of law and the obligations of the state emanating therefrom or even keeping up appearances, the new government, in office since March 2013, has by and large opted for exactly the opposite course. This is based on the logic of “us” and “them”, the former consisting of the Greek Cypriot community, while the latter category comprises migrants, refugees, asylum seekers and other communities, including Turkish Cypriots. In effect, this entails an all-out social division amounting to discrimination based on citizenship and ethnic origin alone and defies all principles of solidarity, social inclusion, human rights, equality and the rule of law. Although the basis of this policy has not been officially spelt out, it is easily inferred that the reasoning behind it is that in these dire times, when sacrifices need to be made by everyone, the state will look after its own and those that matter, while marginalising further the most vulnerable sections of society, among them migrants, refugees and especially asylum seekers.

This is epitomised in the proposed reform of the welfare system, “the philosophy of which is based on the principle that the state should be able to guarantee decent living conditions to all citizens who really need support” and introduces the “guaranteed minimum income”. However, the statement of the Minister of Labour and Social Insurance that this reform is already underway, with the “rationalization of the benefits granted to asylum seekers”⁷⁹, disperses all hopes that the new welfare system will be guided by solidarity and equality of all vulnerable groups, without any discrimination or exclusion.

The revised public benefits system for asylum seekers and persons with humanitarian protection status, developed by the Council of Ministers and voted by the House of Representatives in July 2013, is an example *par excellence* of the socially divisive policies of the government, which will very likely lead to further instigating discrimination and racism, as the revised system provides for two different levels of benefits for Cypriots/other EU citizens, and for asylum seekers and persons with humanitarian protection status, to

⁷⁹ Interview, *O Phileletheros* newspaper, 29 July 2013, <http://www.philenews.com/el-gr/koinonia-anthropoi/443/155673/zeta-aimilianidou-pos-tha-efarmostei-i-nea-koinoniki-politiki>

replace the hitherto uniform for all public benefits system. Further, the new system has drastically reduced the overall amount granted to this vulnerable group, numbering at present no more than 200 people, who will receive a large part of their benefit in the form of vouchers (for food, clothing and footwear). The system was adopted without any assessment or consideration as to the best possible way for the provision of material reception conditions to asylum seekers or whether the voucher system would cost less than monetary benefits, and ignoring the complexity and cost of its management. It is certain that neither the reduced amount⁸⁰ of public benefit nor the coupons system can guarantee asylum seekers and people under humanitarian protection decent living conditions; rather, they condemn them to living in extreme poverty and misery, while their human dignity will be further violated. It is noted that the vouchers system was on the agenda of the previous government, which seemed to have second thoughts in view of its ideological background and also possibly in the face of protests and concerns voiced by NGOs advocating for the rights of migrants and refugees and human rights.

In the context of the prevailing populist, nationalist and racist discourse, government Ministers and other public officials do not seem to be inhibited from expressing outright xenophobic and racist views in public. So, in an attempt to divert the attention on his person, and that of the Director of the Civil Registry and Migration Department under his Ministry, who are being sued by the lawyer of a Romanian citizen who was deported in violation of a Supreme Court decision, the Minister of Interior reacted with statements irrelevant to the matter at hand about “combating the abuse of the right to free movement of European citizens” and “Every foreigner residing in Cyprus illegally deprives a Cypriot of a piece of bread”⁸¹.

On the 2nd of July 2013, the Ombudsman’s Office published a report⁸² on domestic workers⁸³ in Cyprus, where it is recommended that the government proceed to the development of a comprehensive and totally new framework for migrant women employed in this sector in order to “effectively safeguard and protect the rights of this particularly vulnerable group of workers”. The comprehensive recommendations of the report, most of which KISA has repeatedly proposed to the competent authorities without any response, include the following:

- Ratification of the ILO Convention on Domestic Work

⁸⁰ The total amount of public benefits for asylum seekers and persons under humanitarian protection, including vouchers, is €320 for one person, in comparison to the €678 for Cypriots and other European citizens. There are no vouchers for the latter category of benefit recipients.

⁸¹ Public Information Office, Reply of the Minister of Interior to newspaper reports, 17 July 2013
<http://www.moi.gov.cy/moi/pio/pio.nsf/0/CAD4F06206260D77C2257BAB0048DDE1?OpenDocument> ;
Statement of Minister of Interior to *O Phileletheros* newspaper, 17 July 2013 (printed issue)

⁸² Αρ. Φακ: Α/Δ 3/2013, Ombudsman as National Human Rights Organisation, *Position on domestic workers in Cyprus, 2 July 2013* (in Greek, *Τοποθέτηση Επιτρόπου Διοικήσεως ως Εθνική Ανεξάρτητη Αρχή Ανθρωπίνων Δικαιωμάτων αναφορικά με το καθεστώς των οικιακών εργαζομένων στην Κύπρο*)
http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/presentationsArchive_gr/presentationsArchive_gr?OpenDocument

⁸³ Migrant women form the overwhelming majority (97%) of the workforce in domestic work.

- Implementation of the Council of Ministers Decision to transfer the responsibility and competency of the employment policy concerning migrant domestic workers to the Ministry of Labour and Social Insurance from the Ministry of Interior
- The new framework to be gender mainstreamed
- Combating of sexual harassment, abuse and violence against migrant domestic workers
- Amendment of the work contract so as to remove all restrictive and discriminatory provisions and improve the working terms and conditions
- End the present system where a domestic worker is tied to and dependent on the employer
- Improvement of domestic workers' access to health care services, including reproductive health rights
- Revision of the policy as to take into consideration the risks for human trafficking, either for sexual or labour exploitation, which domestic workers are vulnerable to.

In addition, the report recommends that the new policy for migrant domestic workers be designed and developed through dialogue and consultation and with the active involvement of NGOs working in the field and representatives of associations or informal groups of domestic workers.

The Government did not respond publicly to the report. Instead, the Government decided to reduce the salaries for domestic workers by 5%, from €326 to €314⁸⁴. The decision is also backed up by a media campaign demonising the domestic workers as “exploiters” of the Cypriot employers and a «gangrene» of the society.⁸⁵

⁸⁴ The salary for domestic workers in the early 1990s, when the first migrant women came to work in the sector, was €150 (or €255), which was the national minimum wage. Today, the minimum wage is €870.

⁸⁵ http://www.sigmalive.com/news/local/60125?hubRefSrc=facebook#lf_comment=92443704,
<http://www.philenews.com/el-gr/koinonia-eidiseis/160/157497/paranomes-12000-oikiakes-voithoi>

PART II: INFORMATION ON SPECIFIC CERD ARTICLES

Article 1: Definition of racial discrimination

A. Assessment of the compliance of the definition of racial discrimination in domestic law with the definition provided in article 1, paragraph 1 of the Convention

The definition of racial discrimination in accordance with the International Convention on the Elimination of all Forms of Racial Discrimination is included in verbatim in the Ratifying legislation of the Convention⁸⁶. All international Conventions ratified by Cyprus, have superior force to any domestic legislation according to Article 169 of the Constitution. According to case law of the Supreme Court, conventions are directly applicable in the Republic and can be, invoked before, and directly enforced by the Courts and administrative authorities, unless their provisions are non-self executing and therefore the state has the legal obligation to enact appropriate legislation for their implementation or take any other necessary measures and policies for their implementation.

The provisions of the Convention, have not been found up to date by Courts to be directly applicable, amongst other reasons, because simply there have not been any cases invoking the Convention before Courts.⁸⁷ KISA's analysis of the text of the Convention is that it may and cannot be considered as directly applicable as it imposes obligations to state parties to act and positively take the necessary legislative, practical, policy and other measures so as to fulfill their duties and obligations under the Convention. Even though the prohibition of discrimination on any ground under Constitutional provisions⁸⁸, including racial discrimination, was found by the Supreme Court to be directly applicable and individuals could invoke it before Courts, this does not mean that racial discrimination under the Constitution, which was never defined, coincides with the definition attributed to racial discrimination by the Convention. From 1967 up until 2004, no particular legislative or other measures were taken to implement the Convention. For example discrimination and incitement to discrimination and racial hatred were not penalized⁸⁹, laws that included discriminatory provisions continued to be in place, and they are in force up to date and no S

⁸⁶ Law 12/67 as amended by Laws 11/92, 6(III)/95 and 28(III)/99.

⁸⁷ In the only case the Convention was invoked before the Supreme Court, in *Moyo and Others v. The Republic*, Appl. No 311/88, 11 June 1990, the Supreme Court did not go into declaring the provisions of the convention as directly applicable, but only remarked that no evidence was brought before it that the deportation of the applicants was racially discriminatory. It moreover held that their deportation was perfectly justifiable as the state in exercising its sovereignty, has the right to deport aliens, the only obligation of the authorities being that they should act in good faith. It should be noted that even up until today and after ratifying the majority of international human rights and after harmonizing the asylum and migration legislation with EU rules, some Courts continue to apply the above mentioned sovereignty rule endorsing the wide discretion of the state to deport/expel migrants, irrespective very often of international or EU obligations.

⁸⁸ Article 28 of the Constitution

⁸⁹ With the exception of the latest amendment of the Law in 1999 in order to penalize hate speech and incitement to racial hatred. It has to be noted however, that it is doubtful if anybody was ever charged under that law.

specific actions or policies were adopted ever since to comply with the obligations under the Convention⁹⁰.

It was only in 2004 and after accession to the European Union that Cyprus enacted specific legislation on antidiscrimination and racism in order to transpose the EU antidiscrimination Directives and the Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law. As mentioned in the report of the Government, Cyprus upon accession to the European Union, was under the obligation to enact specific antidiscrimination legislation in order to transpose the antidiscrimination Directives of the EU⁹¹. Those were transposed in January 2004 into two different laws⁹², one covering discrimination in the area of employment on grounds of race or ethnic origin, age, disability, sexual orientation and religion and one covering discrimination on grounds or race and ethnic origin in the areas of social protection, including social security and healthcare, social advantages, education and access to and supply of goods and services which are available to the public, as provided in Race Directive 2000/43/EC. In addition, the Ombudsman's Law was also amended to provide for the competence of the Ombudsman to investigate complaints against discrimination committed by both public and private actors and a new law was also enacted in 2004⁹³ to provide for the powers of the Ombudsman when investigating complaints on discrimination. In addition, in 2011, a new law was enacted in order to transpose Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law⁹⁴.

The above laws copy the EU Directives and also criminalise racially discriminatory behavior, both in the context of occupation and employment and the areas covered by the Race Directive 2000/43/EC. They cover direct and indirect discrimination, harassment and instruction to discriminate against persons on grounds of race and ethnic origin, they include provisions on the reversal of the burden of proof when the victim provides information that show that prima facie they have been discriminated against, they provide for the right of the victims of discrimination to seek compensation and they also provide safeguards against victimization in case of reporting discrimination as well as the possibility of positive action measures, which have never been used up to now⁹⁵. Even though these laws include provisions and tools that could facilitate the combat against

⁹⁰ A National Action Plan Against Racism adopted for the purposes of compliance with Durban Conference, is considered by KISA as lip service as it was inadequate, general and theoretical in nature and did not do much to address racial discrimination on the grounds and in all its aspects.

⁹¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

⁹² Law 58(I)/2004 on Equal Treatment in Occupation and Employment and Law 59(I)/2004 on Equal Treatment (Racial or Ethnic Origin).

⁹³ Law 42(I)/2004 Law on Combating Racial and Some other forms of Discrimination (Commissioner) of 2004. The law is very complicated and incomprehensible; something that creates problems in its implementation.

⁹⁴ Law on Combating Certain forms and expressions of Racism and xenophobia by means of the criminal law of 2011 (Law 134(I)/2011)

⁹⁵ The only area the state used positive action measures up to now is to combat discrimination on grounds of disability.

racial discrimination, such as the shifting of the burden of proof, it is not an exaggeration to say that, the Convention remains to a large extent unimplemented.

Firstly, there is no definition of racial or ethnic origin discrimination and in the absence to any reference to the Convention as well as in the absence of any interpretation from the Courts, it may not be assumed that the two definitions coincide. Secondly the above laws ban racial and ethnic origin discrimination only in the limited areas falling within their scope i.e. employment, housing, health care, education and access to goods and services. They do not ban discrimination in all those areas coming under the scope of the Convention under Article 1, namely as regards human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

More importantly though, these laws exclude directly from their scope, just as the EU antidiscrimination Directives, the difference of treatment based on nationality whereas they apply without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons on the territory of Cyprus and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned. As non-citizens and in particular migrants from non EU countries, are excluded in Cyprus in law and in practice from the majority of the rights provided for citizens, on grounds of their nationality and/or legal status, and not on the basis of objective criteria applied pursuant to a legitimate aim and proportional to the achievement of the aim pursued, the antidiscrimination laws have limited application to non-citizens and/or it is difficult to establish racial discrimination as regards non-citizens, even in the cases of EU nationals who otherwise enjoy protection from discrimination on grounds of nationality as well⁹⁶.

Moreover, the law on Combating Racial and Some other forms of Discrimination (Commissioner) of 2004, which is broader in its scope and includes also the rights provided in the Convention, defines racial discrimination as any less favourable treatment than that, enjoyed by any person in an analogous situation on grounds of race, community, language, colour, religion, political or other belief or national or ethnic origin or treatment and behaviour which constitutes discrimination or any provisions, term, criterion or practice that constitutes discrimination. In general the provisions of this law are difficult to comprehend and do not provide legal certainty as to what constitutes racial discrimination, what is the scope and what is actually prohibited. Moreover, the above mentioned law does not include provisions on harassment and victimisation, the shifting of the burden of proof, the right to compensation, positive actions, etc. It only regulates the grounds of prohibited

⁹⁶ For example, child benefits are paid only to persons who have their habitual residence in the Government controlled areas for a period of at least three years. EU nationals are indirectly excluded from this benefit for the first three years of residence whereas all migrants, with the exception of recognised refugees, are excluded from this benefit because no matter how many years they may be residing in Cyprus, their residence is always considered temporary and not habitual.

discrimination, the areas of application and the powers of the Ombudsman to enforce the law.

In conclusion, the definition of racial discrimination of Article 1 of the Convention is not to be found in any legislation apart from the ratification law of the Convention, which in KISA's view is not directly applicable in the domestic legal order.

The above piece meal approach of the antidiscrimination legislation, which follows the piece meal approach of the EU antidiscrimination Directives, has been strongly criticised by NGOs⁹⁷ and as well as monitoring bodies of the Council of Europe such as ECRI. NGOs have been calling for a single, horizontal, antidiscrimination legislation including racial discrimination as this is defined in the Convention, prohibiting discrimination on all grounds, including an open ended clause as Cyprus ratified Protocol No 12 of the European Convention on Human rights, and in all areas and also to provide the same tools to victims of discrimination to pursue their rights. Such legislation would also be able to address multiple discrimination, which currently is not the case in Cyprus as one has to revert to different legislations and different bodies in case he/she has been a victim of multiple discrimination.

The Government of Cyprus in its periodic report, both in its Core document and in its CERD specific report, has failed to provide accurate and detailed information to the Committee as to the definition of racial discrimination in domestic law and how this is applied and implemented in practice. This is already in itself problematic, as it shows the unsatisfactory level of awareness of the authorities of the legal framework against racial discrimination in place in Cyprus, let alone its implementation, but at the same time it explains the failure of the state to address and take the necessary measures to combat racial discrimination within the meaning of the Convention and in accordance with its obligations under the Convention.

B. Information on whether the legal system of the State party allows or provides for special measures to secure the adequate advancement of groups and individuals protected under the Convention.

Special measures or positive action measures for certain racial or ethnic groups or individuals may be taken only as regards the limited scope of the legislations transposing the EU Race Directive, i.e. in the areas of employment, healthcare, housing, education, social protection and access to goods and services. However, the state has never adopted

⁹⁷ See ENAR (European Network Against Racism) Shadow yearly reports on Racism in Cyprus from 2005 onwards available at http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN

any such measures to address inequalities and discrimination on grounds of race⁹⁸. In all other areas falling outside the limited scope of the antidiscrimination legislations enacted for the purpose of harmonisation, domestic legislation does not provide for the possibility of special or positive action measures. Moreover, the Supreme Court previously rejected the notion of positive action with its case law⁹⁹.

The Government of Cyprus considers in its periodic report the creation of the Antidiscrimination Body (ADB) in 2004 within the framework of the transposition of the EU Anti-Discrimination Directive 2000/43/EC (Racial Equality Directive) as a legal system or mechanism which allows or provides for special measures to secure the adequate advancement of groups and individuals protected under the Convention. In our opinion the particular statement of the Government about the ADB indicates once again the level of awareness of obligations and/or possibilities for combating racial discrimination under the Convention.

Article 2: Legal background

A. Brief description of the legal framework and general policies to eliminate racial discrimination

As mentioned already under Article 1, anti-discrimination laws follow the piecemeal approach of the EU antidiscrimination directives therefore cover various grounds, in various fields with different laws. For example, equality between men and women is addressed in four different laws covering employment and occupation, equal pay, pensions and access to goods and services. Discrimination in employment for all other grounds, including race and ethnic origin, are addressed in a different law, whereas race and ethnic origin discrimination in all areas covered by the Race Equality Directive, apart from employment is covered in a different law. This approach is ineffective and problematic, as, apart from not being able to address multiple discrimination, which is most often prevalent for example in the cases of migrant domestic workers, it also neglects to a large extent the international obligations of Cyprus against racial discrimination as it focus only on the European Union obligations which are more limited in their scope, but on the other hand provide better tools for combating and tackling race and ethnic origin discrimination.

Moreover, the legal framework introduced by the Government to combat discrimination, is lacking behind even EU standards as the obligation to establish an Equality Body, which amongst other functions, would provide independent support to victims of discrimination in

⁹⁸ The only ground and area that positive actions measures were adopted was in employment for persons with disabilities.

⁹⁹ Eleni Konstantinou v. Republic, Revisional Appeal 3385,

order to pursue their rights, is not fulfilled¹⁰⁰. Victims of race and ethnic origin discrimination do not get any support in pursuing their rights¹⁰¹ either by an independent Equality Body or by NGOs. The functions of the Ombudsman, as an extrajudicial mechanism of examining complaints, which the Government presents as the Cypriot Equality Body, do not include independent support to victims of discrimination. At the same time NGOs willing to offer such support, not only they are not funded by the Government to do so, but they are targeted and criminalized as will be mentioned further down in this report.

The power to finally decide whether discrimination on any of the prohibited grounds has occurred with a binding decision rests with the Ombudsman (Equality Body), which is an extrajudicial body, and/or with the Courts. The Equality Body is under the Ombudsman's Office and consists of two different bodies, the first being the Anti-Discrimination Authority, dealing with all matters related to discrimination in employment, including race discrimination, and the Authority Against Racism and Discrimination, which deals with all other matters coming within the scope of the Race Directive 2000/43/EC and the corresponding national legislation. The Equality Body has the mandate to investigate complaints regarding discrimination or to initiate an investigation itself. The Equality Body also has the mandate to monitor discrimination and prepare reports to inform the Government on the situation of discrimination in the country as well as raise awareness about discrimination. The decisions of the Ombudsman acting in its capacity as the Equality /Antidiscrimination Body, when it comes to discrimination issues are binding. It also has the power to impose very low fines as a means of enforcing its decisions. However, no other enforcement mechanism is foreseen in the relevant law and the Ombudsman has no power to award compensation to victims of discrimination. Only Court decisions are enforceable and only Courts can award damages to victims of discrimination. The Ombudsman regrettably has no locus standi in Court proceedings; it cannot therefore either represent the victims before the Courts or refer perpetrators to the Court, and its decisions do not hold any evidence value in the Court proceedings in order for the burden of proof to be reversed. Finally, the Ombudsman cannot even testify as a witness in Court, in relation to complaints examined by the institution and end up in Court proceedings.

The above institutional framework faces many challenges, the most notable of which are the lack of horizontal structures both in the executive (Government) and the legislative (Parliament) power, to deal with racial discrimination on the political and legislative level, and the lack of effective advice, support and protection for victims of discrimination. Apart from the Ombudsman, which acts mainly as an extrajudicial mechanism, there is no policy body dealing with non-discrimination on a horizontal level with the task of mainstreaming non-racial discrimination in all policy areas. Unless racial discrimination is addressed at such a level, no substantial changes may be expected from isolated and sporadic measures, such

¹⁰⁰ See Article 13 of the Race Directive 2000/43/EC

¹⁰¹ Unlike victims of gender discrimination who can be supported in pursuing their rights against discrimination in the field of employment, from the Committee on the Elimination of Gender Discrimination established especially for this purpose and which also provides legal aid.

as awareness raising campaigns done every now and then when funding is available from the European Union.

Despite the above drawbacks, it has to be admitted that the Ombudsman is the main and most efficient mechanism currently available for redress and awareness-raising on racial discrimination within the Cypriot system. It is an institution additional to the Courts that may be used by victims in order to file complaints. It is easier and less expensive to complain to Ombudsman than the Courts, but it is not accompanied with a powerful enforcement system of its decisions.

Moreover, when the decision of the Ombudsman concludes that a legislative provision is discriminatory and therefore the legislation needs to be amended, a mechanism for rendering the decisions of the Ombudsman inapplicable, has been devised by the public authorities, which interpret the provisions of the Law on Combating Racial and Some other forms of Discrimination (Commissioner) of 2004, so as to submit the decisions of the Ombudsman to the scrutiny of the Attorney General, acting in his capacity as the legal advisor of the Government. As a result, unless the Attorney General also agrees with the Ombudsman, the public authorities do not comply with the decisions of the Equality Body, despite the fact that, the Ombudsman was specifically established and trained to examine complaints on discrimination in both the public and private sector, and therefore established as an independent and specialised body to that effect. Moreover, this interpretation of the law by the Government creates a conflict between the two institutions and does not resolve the issue of discriminatory laws, policies and practices of public authorities implemented on the basis of legal advice of the Attorney General.

The State has never established and/or developed a comprehensive policy and measures to eliminate racial discrimination. The so called National Action Plan Against Racism adopted in 2002 after Durban, was a theoretical exercise to be presented to various international organizations requesting information on the actions Cyprus took after Durban and in any case, it was never implemented and/or did not have any effect on the ground and/or never updated so as to address rising levels of racial discrimination and racism in the country, as explained also in Part I of KISA's Alternative Report. On the contrary, Cyprus continues up to date to follow migration and asylum policies as those are analysed in Part I of the Alternative Report of KISA, which it is not an exaggeration to say that they are conducive to racial discrimination and racism at a minimum, and/or are based on an utterly discriminatory migration model. Moreover those policies, under the previous as well the current Government, are becoming stricter under the pretext of the economic crisis, to the effect that they currently also affect and restrict the well embedded rights to free movement and residence of EU nationals. An unprecedented number of cancelations of registrations, detention and deportations of EU nationals, on grounds of not fulfilling the requirements of EU law or on grounds of marriages of convenience or other public policy grounds is currently experienced in Cyprus. And while such policies and actions of the

administration are at least prima facie illegal¹⁰², the response of the politically responsible Minister of Interior to accusations of illegal deportations of EU nationals and restrictions of their rights, that “every illegal immigrant takes a piece of bread from the mouth of Cypriots”¹⁰³ had the effect of stirring more xenophobic and racist sentiments.

The absence of an integrated and well-coordinated migration policy, which would also include the most pertinent aspect of the integration of migrants into the Cypriot society, has been criticized many times by international organisations¹⁰⁴. The lack of an integration policy of migrants in combination with the particular migration model that Cyprus has adopted together with the lack of political will to address these issues, foster, in KISA’s opinion, racism and discrimination against migrants and refugees.

B. Specific and detailed information on the legislative, judicial, administrative or other measures taken

KISA’s contribution under this heading of the Committee’s guidelines, will focus on policies, practices and measures taken by the State to eliminate racial discrimination, or rather the lack of, that relate to migrants¹⁰⁵ and migrant rights NGOs and their treatment by the State.

As mentioned in KISA’s Part I of the Report submitted to the Committee, the Cypriot understanding of issues of migration from countries not in the EU, continues to be based on the idea of the ‘guest worker’, that is, temporary entry, residence and employment for a maximum period of currently four years, in specific sectors of employment and in a specific employer. Migrant workers cannot change an employer before the first six months (unless there are serious abuses of their labour or other rights) and subsequently only if their employer “releases” them or in case of labour right violations a release is given by state authorities. The change of the migration policies regarding migrant workers allowing a maximum ‘period of stay’ of four instead of six years in 2006, appears to have been carried out in order to frustrate the intended effect of the Long Term Residence Directive¹⁰⁶, incorporated into Cypriot law in 2007. Under this Directive, people who had stayed legally for five years in Cyprus would have been able to apply for long-term resident status i.e. permanent status. This emphasizes the determination of the Cypriot government not to

¹⁰² Especially when the Supreme Court suspends the deportation and detention of an EU national, and the authorities in contempt of Court proceed with her deportation.

¹⁰³ Fileleftheros Newspaper, Perifronisan to Anotato kai apelasan Roumana, 16 Iouliou 2013

¹⁰⁴ Reports of the European Commissioner for Human Rights of the Council of Europe: The Commissioner-CommDH(2004)2/ 12 February 2004, The Commissioner – CommDH (2006)12/ 19 March 2006.

Report of the European Commission against Racism and Intolerance, CRI (2001) 35, Second report on Cyprus, Adopted on 15 December 2000 made public on 3 July 2001 followed also by subsequent reports

American Foreign Ministry Report on Human Rights, Country Reports on Human Rights Practices-2005, Released by the Bureau of Democracy, Human Rights, and Labor, March 8, 2006 followed also by subsequent reports

¹⁰⁵ Even though of distinct legal status and of different vulnerabilities, the term migrants in this part of the report includes all migrants, economic and forced – asylum seekers, refugees and victims of trafficking.

¹⁰⁶ Directive 2003/109/EC on the status of third country national who are long term residents in the member states of the EU.

change its policy on guest workers. Moreover, migrants who manage one or way or another to reside in the country for many years or recognised refugees, do not have any possibility to secure permanent residence or naturalisation as the vast majority of such applications are rejected.

As regards asylum, Cyprus follows one of the strictest asylum policies amongst EU member states with a recognition rate of refugees and person under international protection just below 1%, the lowest by far not only in the EU but also internationally. Moreover, as will be discussed further down, in its effort to make Cyprus an unattractive destination for Asylum Seekers, strict policies that violate human rights and racially discriminated against asylum seekers and refugees have been steadily and progressively adopted up to date.

The lack of a fully functioning migration and integration policy continues to result in human rights abuses. Specifically, the lack of coordination between departments, the routine inefficiency of the Cypriot civil service, and the lack of funding available for independent legal aid and advice to migrants, all combine with institutional hostility to the idea of permanent or even long-term migration to result in a service that is opaque and perceived as hostile to migrants¹⁰⁷.

According to a survey conducted by RUBSI, 47% of the participants reported having encountered institutional discrimination and 63% reported discrimination and prejudice on a 'daily basis'¹⁰⁸.

A second research conducted in 2007 among asylum seekers concluded that 35% of the beneficiaries experienced racism by the Authorities, and 42% experienced racism from Cypriot citizens. Asylum seekers from Asian countries experienced to 50% racism by the Authorities and 54% by Cypriot Citizens¹⁰⁹.

KISA has been advocating for years towards subsequent Governments to address the issue of institutional discrimination and racism, which has developed through the years to be one of the most serious concern. No substantial measures were taken so as to ensure that all public authorities and public institutions, national and local, do not engage in acts of or practice of racial discrimination against persons or groups of persons. In fact, from the accumulated experience of KISA since 1999 from the provision of support and advice to migrants, it is the rule that when migrants address the authorities, especially in the Migration Department, the Immigration Police, the Labour Department, the administration of the Public Health institutions and the Welfare Services are racially discriminated, unfairly treated and very often humiliated.

¹⁰⁷ MacKay, Polili, Latif, Dayioğlu, ENAR Shadow Report, Racism in Cyprus, 2008.

¹⁰⁸ RUBSI / Research Unit in Behavior & Social Issues: *Policy and Practise – Ethnicity and Race in Contemporary Cyprus*. 19 December 2007, Cyprus.
See: <http://www.rubsi.org/od/en/ethnicity%2Dand%2Drace%2Din%2Dcontemporary%2DCyprus/>, retrieved 13 August 2013

¹⁰⁹ Micharikopoulos, Dimitris G. *Behind the Mirror, Social Rights and Characteristics of the Asylum Seekers in Cyprus*. Papazisi: Athens, 2009.

Despite the operation of the Police Office for Combating Discrimination (POCD), mentioned by the Government in its reports, there does not seem to be available any official data and statistics measuring discrimination, racist crime and racist attacks. As a result, racism and racial discrimination continue to remain to a large extent unidentified and, most importantly, systemic and institutional discrimination in the various areas remains unattended. According to a report by the Cyprus Equality Body in 2009, since its establishment, the Office continues to remain, inefficient and unable to exercise its role¹¹⁰.

Having said all the above, in relation to the adoption of migration policies conducive to racial discrimination and racism that do not allow as a rule the integration of migrants, it should be also noted, that, on the other hand, especially after the economic crisis and collapse of the banking system and the Cypriot economy, the Government is aggressively advertise its new policy of facilitating the granting of “permanent migration permits¹¹¹” or “Cypriot citizenship¹¹²”, only to people who have enough money in the banks and/or have or are willing to invest in Cyprus, irrespective of they reside in Cyprus. While those criteria are not racially in any way defined, it is commonly accepted and understood that the majority of those benefiting from those policies are persons with a white, very often Christian background originating from developed countries who can afford to fulfil these requirements. This would not most probably have been a problem if migrants and refugees with long term residence in the country would be enabled to have access to permanent residence or nationality.

As stated in other parts of this report, migrants are excluded from the majority of political, social and economic rights on the basis of their nationality or legal status. No substantial review of governmental, national and local policies ever took place so as to amend any legislation or measures that have the effect of creating or perpetuating racial discrimination. In 2004, when the legislation transposing the EU Race Directive was enacted, provisions were included that any legislative provisions creating or perpetuating discrimination on grounds of race or ethnic origin, would be deemed as annulled to the extent that they were contrary to the provisions of the Law 59(I)/2010¹¹³. At the same time, in case of doubt if a provision is contrary to the provisions of Law 59(I)/2010, the competent court should decide whether they are discriminatory. These provisions run counter to the provisions of the EU Race Directive 2000/43/EC which obliges member states to ensure that any laws, regulations and administrative provisions contrary to the principle

¹¹⁰ The Cyprus Equality Body: *The Cyprus Equality Body, Report 2/2008*. 26 January 2009, Cyprus.
See: http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/annualrpt_archive_gr?OpenForm, retrieved 13 August 2013

¹¹¹ The requirements for the granting of a permanent migration permit are a secured minimum annual income of €30.000, from sources other than employment in Cyprus, increased by €5.000 for each dependent person, a Title of ownership or contract of sale, of a property in Cyprus of a minimum market value of €300.000 and proof of payment for at least €200,000 and deposits to a Cypriot Bank of a minimum capital of €30.000 in an account, which will be pledged at least for a three year period.

¹¹² The criteria for the naturalization of persons with enough money and investments, irrespective of years of residence in Cyprus are available at <http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/5B405A024B4B520CC2257B89001C032D?OpenDocument>

¹¹³ Article 10 of Law 59(I)/20014

of equal treatment are abolished and that any provisions contrary to the principle of equal treatment which are included in individual or collective contracts or agreements, internal rules of undertakings, rules governing profit-making or non-profit-making associations, and rules governing the independent professions and workers' and employers' organisations, are or may be declared, null and void or are amended. By providing that such laws, rules e.t.c. are deemed to have been annulled in law 59(I)/2004, does not provide any legal certainty as to when a provision is considered discriminatory, whereas individuals, have to eventually resort to court procedures in order to pursue their rights, something that it is not easy for groups such migrants for the reasons explained also under the comments on Article 6 of the Convention. It is also noted that despite the above mentioned provisions, although the contract of employment of domestic workers, who are women migrant workers and the largest group of migrants in the country, and which is prepared by the Civil Registry and Migration Department , was found to be discriminatory by the Ombudsman in previous reports, it was never amended so as to comply with the anti-discrimination legislation and continues to be obligatory to be signed by employers and domestic workers, before the residence and employment permit is issued.

As regards the obligation of the state to encourage NGOs and institutions that combat racial discrimination and foster mutual understanding, it should be noted that the experience of KISA points to exactly the opposite direction. As already mentioned in Part I of its Report, KISA members as well as leading individuals from the migrant and refugee communities have been targeted and criminalised for their active engagement in the defence of the rights of migrants and refugees in the country. The executive Director of KISA was among others charged for rioting in an antiracist and multicultural festival organized yearly by KISA, which was attacked by neo- Nazi, neo-fascist and nationalistic groups in 2010. The acquittal from the Court proves beyond any reasonable doubt the false accusations against KISA's director and the harassment KISA and its members have been, and continue to face in Cyprus¹¹⁴.

C. Information on whether a national human rights institution, created in accordance with the Paris Principles, or other appropriate bodies have been mandated with combating racial discrimination

¹¹⁴ Observatory for the Protection of Human Rights Defenders, "Annual Report 2011: Europe and the Commonwealth of Independent States", p. 397 and 399-400. See: http://www.fidh.org/IMG/pdf/obs_2011_uk-europecis.pdf

European Association for Human Rights/ Association Européenne des droits l'Homme (AEDH), Euro-Mediterranean Network for Human Rights, European Network Against Racism, Fahamu Refugee Legal Aid Programme, Front Line Defenders, Migreurop, Observatory for the Protection of Human Rights Defenders and Platform for International Cooperation on Undocumented Migrants, "Press Release – Cyprus false accusation confirmed: Judge drops all charges against human rights defender Doros Polykarpou". See: <http://frontlinedefenders.org/node/18563> , <http://thoolen.wordpress.com/2012/06/05/good-breaking-news-from-cyprus-hrd-doros-polycarpou-acquitted/>, <http://www.theguardian.com/commentisfree/2012/mar/13/cyprus-political-racism-doros-polycarpou>

KISA welcomes the amendment of Law 158(I) 2011 to the Commissioner for Administration Law, so as to mandate the Ombudsman also with the tasks of a National Human Rights Institution. With full respect of the important work the Ombudsman's office has been doing all along, KISA is seriously concerned however about the timely and effective exercise of those functions for the following reasons:

1. The Ombudsman has undertaken too many functions, namely it is acting as the Commissioner of Administration, as the Equality Body, as the Antidiscrimination Body and Body against Racism, as the National Human Rights Institution and as the preventive mechanism, under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment as ratified by Law L.2(III)/2009. While taking all this tasks, its capacity in terms of human and financial resources did not grow therefore endangering the possibility of providing effective means of redress of victims of human rights violations and racial discrimination.
2. Because of all the above tasks allocated to the Ombudsman and because the delimitation of the different tasks is done only internally at the Ombudsman, one cannot know under which of the tasks a complaint will be eventually examined.
3. The Ombudsman, does not have full control over its budget as the staff appointed to the office as well as any temporary staff allocated to the institution are appointed by the Commission of Public Service and /or the Personnel Department of the Ministry of Finance, which is at the same time monitored by the Ombudsman as well.
4. The actions and decisions of the Attorney General, who is the legal advisor of the Government, which are otherwise monitored by the NHRI, are not subjected to the scrutiny and control of the NHRI.

All the above issues raise serious concerns over the effectiveness of NHRI and the compliance of NHRI with the Paris Principles.

D. Information on groups and individuals benefiting from special and concrete measures taken in social, economic, cultural and other fields in accordance with Article 2, paragraph 2 of the Convention.

KISA considers as utterly unacceptable, to say the least, the fact the Government presents its discriminatory administrative practices and policies followed in the case of migrants workers as well as the special procedures followed in cases of labour disputes for migrant

workers, as positive or special measures benefiting migrant workers in the social, economic, cultural and other fields. The policies and migration model followed has been analysed above, whereas presenting the special procedures followed for labour disputes and for permission to change employer, after the Ombudsman found in three or even more reports, while NGOs have been also complaining, that those procedures are by their nature discriminatory, unfair and problematic in many of their aspects, raises even more serious concerns as it shows that the Government is not even in a position to assess and act upon these reports and understand even basic notions of human rights. The fact alone that those procedures, are not regulated by law or regulations, they are un transparent as nobody knows when, how often and who decides for any changes made in the procedure, they apply only to migrant workers and not to any other worker and they are done by staff of the Labour Relations Department who are more often than not, not specifically trained to carry on such procedures, is problematic. These procedures may not be considered as positive actions or measures benefiting migrants. On the contrary, those procedures are designed to facilitate the discriminatory migration policies which are based on a “slavery” like system of release of migrant workers on the will of their employers and/or state authorities or to end up in the deportation of migrants workers.

Article 3: Prevention, prohibition and eradication of racial segregation

Paragraph 3

Regarding the Cypriot Roma community, the claim in the Report submitted by Cyprus that they “opted to belong to the Turkish community as per article 2 of the Constitution” is misleading, as the Roma community had been excluded from the negotiations at the time. The Roma community has been indeed appended to the Turkish Cypriot community (and not the Turkish community), but not because it opted to; rather, because this is what had been decided in the relevant negotiations, in which the Roma community had not been represented. Moreover, the Constitution of Cyprus recognises no ethnic minorities, but ‘religious groups’ (Armenians, Maronites, and Latins), which had to adhere to one of the two dominant communities thus excluding the Roma community a priori. At the same time it divides Cypriot citizens along ethnic lines, dissociating between the ‘Turkish Cypriot’ and the ‘Greek Cypriot’ communities.

Further claims regarding the quality of the living conditions of the Cypriot Roma community and social rights granted to them are also misleading. ECRI (European Commission against Racism and Intolerance) on the basis of visits made to Cyprus and NGO information, reports otherwise: “[the] Roma in Cyprus have largely been ignored, avoided and marginalised in Society [...] ECRI regrets that the Roma continue to face widespread prejudice and

discrimination in all areas of life.”¹¹⁵ As documented in ECRI’s report on Cyprus (2011)¹¹⁶, the State fails to meet the educational needs of Roma children, since a vast number of them is concentrated in certain schools (thus segregated), while others (and more specifically those living at Polemidia housing settlement) do not have access to schooling at all. Roma settlements are located in remote areas and Roma are segregated, “primarily to satisfy the local communities, who treated them with hostility and did not wish to live close to them¹¹⁷.” The remote locations of these settlements not only hinder members of the Roma community from enjoying basic human rights as education, and also healthcare and employment, but they also constitute racial segregation against the Roma community. The description ECRI makes of the Polemidia settlement, which they visited, is indicative: “[i]t is the site of a former rubbish dump, away from any village or town and totally isolated from other communities, with no access to any form of public transport.”

Regarding living conditions in the housing settlements for members of the Cypriot Roma community, ECRI reports that the number of the houses is “totally inadequate” (16 housing units for 300 persons living in Polemidia settlement). Sanitary conditions seem to be also poor, as ECRI reports that during their visit “sewage from a septic tank at the entrance to the settlement was overflowing into the only road servicing the area” while residents complain of health problems as a result to poor sanitary conditions¹¹⁸.

Although ECRI “urges the authorities to enter into dialogue with the Roma community concerned to address the most pressing aspects and find a mutually acceptable long-term solution, with a view to closing down the settlement and moving the inhabitants to standard housing in Limassol where they can be integrated with the rest of the population¹¹⁹,” no efforts to engage in a dialogue with the Roma community have been made and the housing settlements not only have they not been closed down, but they continue to constitute the main aspect of the State’s housing policy towards members of the Cypriot Roma community.

Apart from the Roma community, segregation of migrant communities in various ways, is also evident and/or the result of government policies. The housing needs of asylum seekers are covered through mainly a Reception Centre for asylum seekers in Kofinou, which is situated in a remote area, and has received criticism over the living conditions prevailing there. Asylum seekers not residing in a reception centre are supposed to work and/or if not are supposed to benefit from social support in covering their asylum needs. Migrants are not covered by any housing schemes as they are excluded on grounds of nationality. As a result of these policies, asylum seekers, migrants and refugees tend to concentrate into low

¹¹⁵ ECRI REPORT ON CYPRUS (fourth monitoring cycle), adopted on 23 March 2011; published on 31 May 2011. pp. 29-30

<http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/cyprus/CYP-CbC-IV-2011-020-ENG.pdf>

¹¹⁶ Ibid. pp. 17-21

¹¹⁷ Ibid. p. 30

¹¹⁸ Ibid, p. 30

¹¹⁹ Ibid, p. 30

standard, cheap and dilapidated housing facilities, segregated from the rest of the population and also most of the times exploited as they have to pay really high rents for their housing needs.

The Government submits that on the basis of the Rapporteur's list of themes in relation to the seventeenth to twenty-second periodic reports of Cyprus (CERD/C/CYP/17-22) on the matter of the discrimination against non- citizens in the enjoyment of economic, social, and cultural rights and the protection of the non- citizen domestic workers against violations of their labour rights and exploitation, the Council of Ministers adopted the first "National Action Plan 2010-2012 for the integration of Third Nationals legally residing in Cyprus."¹²⁰ It's eight main priorities, as stated in the Government Report , are:

- Information – Services – Transparency
- Employment
- Education – Learning the language
- Health
- Housing – improving the quality of life, social protection and interaction
- Learning the culture – participation, basic knowledge of the political and social life in Cyprus
- Participation
- Evaluation

The above mentioned National Action Plan on Integration, was not the result of any substantial consultation with NGOs , it remained and continues to remain largely unimplemented, apart from some information guides and language lessons most of the actions have not been implemented whereas, it is questionable whether it had any effects on the ground and contributed to the integration of third country nationals and/or whether EU funding under the Integration Fund, was properly and adequately and effectively allocated to various projects that had any substantial effect.

More specifically, as regards the provision of information to third country nationals, some brochures have been published in different languages but are rather superficial and they do not address any key issues of concern to migrants, whereas they were made available only in digital form.

NGOs do not participate in the so called Special Experts Committee on Integration formed by Decision No 65 .242 of the Council of Ministers of 27th March 2007, thus excluding the civil society and the migrant communities from representing themselves and offering their knowledge, expertise and insight for the purposes of their own integration.

¹²⁰ [http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/29C2B8DB3A5D19B1C225798B00410F8F/\\$file/Action%20Plan%202010-2012%20-3-ENGL%20fin%20WEB.pdf](http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/29C2B8DB3A5D19B1C225798B00410F8F/$file/Action%20Plan%202010-2012%20-3-ENGL%20fin%20WEB.pdf)

Significantly, the Government has also not implemented the decision of the Council of the Ministers of October 2011, for the establishment of an Advisory Committee for the integration of migrants "which will be responsible for monitoring the implementation of the national action plan and address broader issues relating to the policy and measures for the integration of third-country nationals. The Advisory Committee was supposed to consist of representatives of the ministries of Interior, labour and social insurance, education and culture and health, representative of the Office of the Commissioner for Administration, trade unions, the Employers and Industrialists Federation (OEB) and the Cyprus Chamber of Commerce and Industry (KEBE), the Unions of municipalities and communities of Cyprus, as well as up to three representatives of non-governmental organisations working on migration issues ¹²¹, but was never established.

On the basis of EU requirements, Cyprus drafted and implemented the National Social Inclusion Programme, the explicit target of which is to address the employment needs of socially vulnerable groups. Out of the five designated vulnerable groups from the European Union (young persons, elderly persons, women, migrants, and persons with disabilities), Cyprus opted to ignore and exclude migrants altogether.

As far as language learning is concerned, it is true that there had been some language programmes for Greek, but there has been no motive/facilitation for migrants to participate in such programmes. The vast majority of migrants in Cyprus are either domestic workers or employed in the agriculture/farming industry. The "nature" of their employment does not allow for free time and therefore, practically, they cannot attend classes. The only way for such programmes to really function would be if participation was mandatory and the employers would be required to allow their employees to attend classes. Moreover, classes should be flexible when it concerns schedule.

The national action plan did not include any actions for the participation of migrants in the social and political life in the country.

Given the migration policies followed that exclude migrants a priori and the lack of any substantial integration measures, it is of no surprise that Cyprus ranks second last in MIPEX's findings concerning the integration of migrants.¹²²

In conclusion, migration policies in Cyprus are per se exclusive and segregating migrants, who live, function and operate in a parallel world in all areas of life, completely alienated from the society in which they live and without any prospects of real integration and participation.

¹²¹ <http://www.moi.gov.cy/moi/moi.nsf/All/AA7AF531253C72D6C2257AA70024CF2A>

¹²² <http://www.mipex.eu/cyprus>

Article 4: Condemnation of all forms of racist propaganda

In accordance with Article 4 -“*Condemnation of all forms of racist propaganda*” of the Convention States parties should provide information on the legislative, judicial administrative or other measures which give effect to its provisions.

In contrast with the provisions of the Convention, the competent authorities of the Republic of Cyprus at the executive, legislative and judicial level have not condemned, prosecuted or took any comprehensive actions and measures to tackle the nationalistic, racist and anti-immigrant propaganda promoted by nationalistic and extremist organisations and far right political parties , such as KEA (Movement of Greek Resistance), PAK (Pancyprian Liberation Movement), Movement for the Salvation of Cyprus (Kinisi gia ti Sotiria tis Kyprou), ELAM (*National Popular Front*) which is the allied party of Golden Dawn in Greece and has very close links with it and to an extent EVROKO (European Party) . Unfortunately , the racist, nationalistic and anti-immigrant agenda and narrative of these parties and organisations, is becoming more and more part of discourse of mainstream political parties, even those identifying themselves as socialists or leftist, in particular in the context of the economic crisis the country has entered into during the last few years.

Apart from their narrative, specific actions of those parties or organisations that could be criminalised under the law, remained unattended and uninhibited by both local and central authorities. The most prominent examples of such racist actions include the distribution by ELAM of free food and clothes “*only to Greek Cypriot and Orthodox Christians*”. More recently, discriminatory propaganda and racist actions were undertaken by far right groups with a clear nationalistic and racist political ideology went so far to include the distribution of free stationery and clothing “*exclusively and only to Greek (Greek Cypriots and Greek citizens) underprivileged students*”.¹²³

It has to be noted that ELAM and KEA are responsible for a series of racist attacks against Turkish Cypriots, immigrants and people with international protection status, which remained non properly investigated and unattended by the Police, including the attacks against Turkish Cypriots and immigrants during the 2010 KISA’s Rainbow Festival, mentioned elsewhere in the report, which are currently in the process of suing the state for

¹²³ KISA – Action for Equality, Support and Antiracism. Tuesday – 30 July 2013. “*Complaint filed to the Anti-Discrimination Body and the Commissioner for the Rights of Children regarding the distribution of stationery and clothes by ELAM (National Popular Front) exclusively and only to Greek (Greek Cypriots and Greek students) underprivileged students*” (ΚΙΣΑ – Κίνηση για Ισότητα, Στήριξη, Αντιρατσισμό. Τρίτη – 30 Ιουλίου 2013. «*Καταγγελία προς την Αρχή Κατά των Διακρίσεων και την Επίτροπο για τα Δικαιώματα του Παιδιού αναφορικά με την προσφορά σχολικών ειδών και ρουχισμού από το Εθνικό Λαϊκό Μέτωπο (ΕΛΑΜ) ‘αποκλειστικά και ΜΟΝΟ σε Έλληνες (Κύπριους και Ελλαδίτες)’ άπορους μαθητές όλων των βαθμίδων εκπαίδευσης*»).

ELAM – National Popular Front, Friday – 26 July 2013, “*Distribution of stationery and clothes*” (ΕΛΑΜ – Εθνικό Λαϊκό Μέτωπο, Παρασκευή – 26 Ιουλίου 2013, «*Συλλογή σχολικών ειδών και ρουχισμού*»). See:

<http://www.elamcy.com/latest-articles/item/2671-syllogi-sxolikon-eidon-kai-rouxismoy.html>, retrieved 13 August 2013.

violation of their human rights because of failure to properly investigate and bring to justice the perpetrators of those crimes.¹²⁴

In another well-known incident of racist attack, members of ELAM attacked and beaten-up an immigrant in the most central road of Nicosia. This incident took place during a “*nationalistic march against the Turkish invasion and occupation of Northern Cyprus*” and the attackers were wearing ELAM t-shirts. Although there were witnesses, the Cyprus Police did not arrest anyone and ELAM claimed that it “*will continue its political action unrestrained*”.¹²⁵

Unfortunately, hate speech, incitement to hatred and racist crime not only is not condemned, prevented or prosecuted by the responsible authorities, but actually is fostered by statements of public figures who, for their own political expedencies, attempt to scapegoat the most vulnerable groups (mainly immigrants, refugees, asylum seekers and victims of trafficking) as responsible for the most adverse consequences of the economic crisis that troubles Cyprus. These persons include public servants, Members of the Parliament and even the responsible ministers.¹²⁶

An example of the tolerance shown to extreme nationalistic and racist propaganda and actions is the recent appointment of a former Member of the Parliament, the Vice President of the populist and nationalistic right-wing party *EVROKO (European Party)*, who also admittedly acted as the lawyer who registered ELAM as a political party, as the Deputy Attorney General of the Republic of Cyprus.¹²⁷

Another example is the recent statements of the Minister of Labour and Social Insurances during her press conference on Tuesday, 7/5/2013 concerning measures to combat unemployment, which come in direct contradiction and are actually undermining the

¹²⁴ Cyprus Mail – Saturday, 10 November 2012, “*Stabbed Turkish Cypriots to sue the state*”. See: <http://www.cyprus-mail.com/cyprus/stabbed-turkish-cypriot-sue-state/20121109>, retrieved 13 August 2013.

Amnesty International, “*Annual Report 2012: The State of the World’s Human Rights – Cyprus*”, See: <http://www.amnesty.org/en/region/cyprus/report-2012>, retrieved 13 August 2013.

World Organisation Against Torture, OMCT – Friday, 23 November 2013, “*Open Letter to Cyprus’ Ministry of Justice – Two years after the attack on the 2010 Rainbow Festival: Justice delayed for victims of racist violence and for KISA’s Executive Director*”. See: <http://www.omct.org/human-rights-defenders/urgent-interventions/cyprus/2012/11/d22084/>, retrieved 13 August 2013.

¹²⁵ ELAM – Εθνικό Λαϊκό Μέτωπο, Πέμπτη, 22 Ιουλίου 2010, «*Δελτίο τύπου σχετικά με τον ξυλοδαρμό μετανάστη στην Λευκωσία*» (ELAM – National Popular Front, Thursday, 22 July 2010, “*Press release on the beating of an immigrant in Nicosia*”). See: http://ethnikolaikometwpo.blogspot.com/2010/07/blog-post_22.html, retrieved 13 August 2013.

¹²⁶ KISA – Action for Equality, Support and Antiracism. Press Release – Thursday, 30 May 2013. “*Under the pretext of economic crisis, the most vulnerable social groups are targeted by demagoguery, racism and discrimination*” (ΚΙΣΑ – Κίνηση για Ισότητα, Στήριξη, Αντιρατσισμό. Δελτίο Τύπου – Πέμπτη, 30 Μαΐου 2013. «*Στο στόχαστρο της δημαγωγίας, των διακρίσεων και του ρατσισμού οι πιο ευάλωτες κοινωνικές ομάδες, με πρόσχημα την οικονομική κρίση*»)

¹²⁷ ELAM – Τρίτη, 21 Δεκεμβρίου 2010, «*Συνέντευξη του Εθνικού Λαϊκού Μετώπου (ΕΛΑΜ) στην εφημερίδα Cyprus Mail*» (ELAM – Tuesday, 21 December 2010, “*Interview of National Popular Front – ELAM – to the newspaper Cyprus Mail*”). See: <http://elamcy.com/wordpress/?p=7704>, retrieved 13 August 2013

SigmaLive – Πέμπτη, 16 Δεκεμβρίου 2010, «*Αίτηση για να μετεξελιχθεί σε πολιτικό κόμμα κατέθεσε το ELAM με την υπογραφή του Ρ. Ερωτοκρίτου*» (SigmaLive – Thursday, 16 December 2010, “*An application to be recognized as a political party was submitted by ELAM with the signature of R. Erotokritou*”). See: <http://www.sigmalive.com/news/politics/336680>, retrieved 13 August 2013

proper role and responsibility of the government to support vulnerable groups of the population and maintain social cohesion.

The Minister of labour and social insurance when she was asked by a journalist whether the measures aim at Cypriots she stated that all these are co-funded projects by the EU and from this point of view they refer to European Citizens ... but she hopes and wishes that with the cooperation of everybody will get employed as many Cypriots as possible. Such statements reveal the clear and unambiguous policy of the Government to promote and support, directly or indirectly Cypriots not only in employment but also in other areas.

Moreover, these statements violate both national and European law and policies against discrimination, which are in place to guarantee that any subsidy measures, coming from either European or national funds, to support vulnerable groups affected by the crisis, should be provided to all the people, who have a right to them without any discrimination, and especially without relying on ethnic origin.¹²⁸

One more example is the recent statements made by the President of the *Pancyprian Hoteliers Association (PASYKSE)* and a Member of the Parliament coming from the governmental party of *Democratic Rally (DISY)*, who claimed that the employment in the tourist industry and particularly in the hotel sector should be distributed by percentages based on the nationality and ethnicity of the workers and employees, and that the majority of job positions should be secured for Cypriots.¹²⁹

¹²⁸ Υπουργείο Εργασίας και Κοινωνικών Ασφαλίσεων - Τρίτη, 7 Μαΐου 2013, «*Δημοσιογραφική διάσκεψη της Υπουργού Εργασίας και Κοινωνικών Ασφαλίσεων με θέμα την προκήρυξη μέτρων για την άμβλυση της ανεργίας*» (Ministry of Labour and Social Insurances - Tuesday, 7 May 2013, "Press conference of the Minister of Labor and Social Insurances on the adoption of measures to reduce unemployment"). See: <http://www.mlsi.gov.cy/mlsi/mlsi.nsf/All/13DC565924613BFAC2257B67003820DF?OpenDocument>, retrieved 13 August 2013.

Ο Φιλελεύθερος - Δευτέρα, 29 Ιουλίου 2013, «*Ζέτα Αιμιλιανίδου: Πως θα εφαρμοστεί η νέα κοινωνική πολιτική - Το νέο σύστημα θα εφαρμοστεί από τον Ιούνιο του 2014*» ("Ο Fileleftheros - Monday, 29 July 2013, "Zeta Aimilianidou: How the new social policy will be implemented - The new system will be implemented from June 2014"). See:

<http://www.philenews.com/el-gr/koinonia-anthropoi/443/155673/zeta-aimilianidou-pos-tha-efarmostei-i-nea-koinoniki-politiki#sthash.DF9BGJ1Q.dpuf>, retrieved 13 August 2013.

KISA - Action for Equality, Support and Antiracism. Press release - Tuesday, 30 July 2013. "The reform of the welfare system cannot ensure social cohesion and solidarity if it is not based on the equal and just treatment of all people" (ΚΙΣΑ - Κίνηση για Ισότητα, Στήριξη, Αντιρατσισμό. Δελτίο τύπου - Τρίτη, 30 Ιουλίου 2013. "Η μεταρρύθμιση του συστήματος πρόνοιας δεν μπορεί να διασφαλίσει την κοινωνική συνοχή και αλληλεγγύη, εάν δεν στηρίζεται στην ισότιμη και δίκαιη μεταχείριση όλων των ανθρώπων")

¹²⁹ KISA – Action for Equality, Support and Antiracism. Thursday – 5 July 2013. "Complaint filed to the Anti-Discrimination Body regarding the discrimination and exclusion of immigrants from the employment and labor in the tourist industry" (ΚΙΣΑ – Κίνηση για Ισότητα, Στήριξη, Αντιρατσισμό. Πέμπτη – 5 Ιουλίου 2013. «Καταγγελία προς την Αρχή Κατά των Διακρίσεων για διάκριση και αποκλεισμό μεταναστών και μεταναστριών από την απασχόληση και εργασία στον ξενοδοχειακό τομέα»).

Ο Φιλελεύθερος – Δευτέρα, 1 Ιουλίου 2013, «*ΠΑΣΥΞΕ: Δέσμευση για εργοδότηση Κυπρίων κατά 70% - Συνάντηση του Συνδέσμου με το ΔΗΣΥ*» (Ο Fileleftheros – Monday, 1 July 2013, "PASYKSE: Commitment for the employment of Cypriots by 70% - The association meets with DISY") See: <http://www.philenews.com/el-gr/top-stories/885/151719/pasvxe-desmefsi-gia-ergodotisi-kyprion-kata-70>, retrieved 13 August 2013.

Ο Πολίτης – Δευτέρα, 1 Ιουλίου 2013, «*Δέσμευση ΠΑΣΥΞΕ για εργοδότηση Κυπρίων: Κατά 70% τα επόμενα χρόνια*» (Ο Politis – Monday, 1 July 2013, "Commitment of PASYKSE for the employment of Cypriots: Over 70% in the next few years"). See: <http://www.politis-news.com/cgi-bin/hweb?-A=239614&-V=articles>, retrieved 13 August 2013.

A last example includes the recent statements made by the Minister of Interior that “any immigrant who is in Cyprus illegally deprives a piece of bread from Cypriot citizens”. These statements show that the most common method followed by political and other public figures is to blame migrants and refugees for the worsening economic and financial crisis, created largely by the Banks and the lack of proper supervision as well as the incompetence of the politicians to address the problems, in an effort to shift the public opinion from their own responsibilities.¹³⁰

According to Paragraph D of the Article 4 of the Convention, “to satisfy their obligations [...] States parties have not only to enact appropriate legislation, but also to ensure that it is effectively enforced. Therefore, they should provide information concerning decisions taken by national tribunals and other State institutions regarding acts of racial discrimination [...]. Statistical data should also be provided on complaints filed, prosecutions launched and sentences passed for acts prohibited [...] over the reporting period, as well as the qualitative assessment of such data”.

In contrast with the above provisions, the Cyprus Police does not seem to keep and/or publish and/or update a registry / database of offences or incidents racially motivated, or instigated or racist crime and hate speech. As a result, there have been no cases before

Η Καθημερινή, Δευτέρα, 1 Ιουλίου 2013, *Δέσμευση ΠΑΣΥΞΕ για εργοδότηση Κυπρίων στα 70% στα επόμενα χρόνια – Συνάντηση του Συνδέσμου με τον ΔΗΣΥ*. See:

<http://www.kathimerini.com.cy/index.php?pageaction=kat&modid=1&artid=138917>, retrieved 13 August 2013.

Η Αλήθεια – Δευτέρα, 1 Ιουλίου 2013, *ΠΑΣΥΞΕ: «Εργοδότηση Κυπρίων στο 70%»* (I Alitheia – Monday, 1 July 2013,

“PASYKSE: Employment of Cypriots over 70%”). See: <http://www.alithia.com.cy/koinonia/item/15325-%CF%80%CE%B1%CF%83%CF%85%CE%BE%CE%B5-%C2%AB%CE%B5%CF%81%CE%B3%CE%BF%CE%B4%CF%8C%CF%84%CE%B7%CF%83%CE%B7-%CE%BA%CF%85%CF%80%CF%81%CE%AF%CF%89%CE%BD-%CF%83%CF%84%CE%BF-70-%C2%BB.html>, retrieved 13 August 2013.

SigmaLive – InBusiness News, Δευτέρα, 1 Ιουλίου 2013, *«Δέσμευση ΠΑΣΥΞΕ για εργοδότηση Κυπρίων κατά 70%»* (SigmaLive – InBusiness News, Monday, 1 July 2013, “Commitment of PASYKSE for the employment of Cypriots over 70%”). See: <http://www.sigmalive.com/inbusiness/news/services/53329>, retrieved 13 August 2013.

Η Σημερινή – Τρίτη, 2 Ιουλίου 2013, *«Δεσμεύτηκε ο ΠΑΣΥΞΕ»* (I Simerini – Tuesday, 2 July 2013, “PASYKSE has committed”). See: <http://www.sigmalive.com/simerini/business/news/567377>, retrieved 13 August 2013.

¹³⁰ KISA - Action for Equality, Support and Antiracism. Press release - Thursday, 17 July 2013. “The ‘bread of Cypriots’ is lost due to the high cost of the arbitrariness of the Minister of the Interior and the Director of the Department of Immigration – Not the immigrants” (ΚΙΣΑ - Κίνηση για Ισότητα, Στήριξη, Αντιρατσισμό. Δελτίο τύπου - Τρίτη, 30 Ιουλίου 2013. “Το «ψωμί των Κυπρίων» τρώει το κόστος των αυθαιρεσιών του Υπουργού Εσωτερικών και της Διευθύντριας του Τμήματος Μετανάστευσης – όχι οι μετανάστες”).

Ο Φιλελεύθερος – Τρίτη, 16 Ιουλίου 2013, *«Περιφρόνησαν το Ανώτατο και απέλασαν Ρουμάνα: Είχε αφεθεί ελεύθερη με απόφαση του Δικαστηρίου την Παρασκευή. Χάσικος: ‘Κάθε αλλοδαπός, που βρίσκεται στην Κύπρο παράνομα, στερεί από έναν Κύπριο πολίτη ένα κομμάτι ψωμί’»* (O Fileleftheros – Tuesday, 16 July 2013, “They condemn the Supreme Court and deported a Romanian: She was released with a Court Order on Friday. Hasikos: ‘Any immigrant who is in Cyprus illegally deprives a piece of bread from Cypriot citizens’”). See: <http://www.philenews.com/el-gr/koinonia-eidiseis/160/153897/perifronisan-to-anotato-kai-apelasan-roumana>, retrieved 13 August 2013.

Ο Φιλελεύθερος – Τετάρτη, 17 Ιουλίου 2012, *«Θα ζητηθεί φυλάκιση Χάσικου – Σιακαλλή: Για παρακοή δικαστικού διατάγματος»* (O Fileleftheros – Wednesday, 17 July 2013, “The will demand the imprisonment of Hasikos and Shiakalli: For disobeying a Court Order”). See: <http://www.philenews.com/el-gr/koinonia-eidiseis/160/154042/tha-zitheifylakisi-chasikou-siakalli>, retrieved 13 August 2013.

Γραφείο Τύπου και Πληροφοριών – Τετάρτη, 17 Ιουλίου 2013, *«Απάντηση του Υπουργού Εσωτερικών, κ. Σωκράτη Χάσικου, αναφορικά με δημοσιεύματα»* (Press and Information Office – Wednesday, 17 July 2013, “The Minister of Interior, Mr Socrates Hasikos, answers regarding press articles”). See: <http://www.moi.gov.cy/moi/pio/pio.nsf/0/CAD4F06206260D77C2257BAB0048DDE1?OpenDocument>, retrieved 13 August 2013.

Courts in relation to such offences, apart from a couple of cases only recently taken to Court. In one of them, relating to charges of incitement to communal hatred, pressed against a grandfather (civil servant) publishing video scenes on social media on the internet, of his grandson been taught by him on how to say nationalistic slogans against Turks and communists with the flag and symbols of Greek Junta at the background, the Court acquitted him. The reasoning of the Court was that no reasonable person could be incited to communal hatred by watching those videos. No Government even adopted national communication strategies and public awareness campaigns aiming at changing attitudes on this issue. Apart from the efforts of human rights groups and NGOs, the 'voices' of far right groups and politicians from conservatives, nationalistic and even neo-fascist groups, speaking out in support of racism and discrimination are normally louder and promoted also by the Media. All relevant state authorities generally display no interest in the prospect of changing public attitudes to racism and discrimination, and do little or nothing to promote all necessary public communication, awareness and education strategies needed to tackle the problem at its roots.

Article 5: Enjoyment of rights without discrimination

A. The right to equal treatment before tribunals and all other organs administering justice.

There is no research as to extent the right to equality and the prohibition of racial discrimination in the administration of justice is safeguarded in the judicial system of Cyprus. No segregated data or statistics as regards race or immigration status or nationality are collected in the administration of justice, so as to be able to assess the extent of racial discrimination in the justice system. From KISA's experience from the provision of services to migrants and refugees, racial discrimination in the justice system is not to be excluded, especially as regards procedural safeguards, legal representation and well as on the penalties imposed, which at first sight there seems to be a tendency that if the same crime is committed by a migrant, it is likely that the penalty will be higher than that imposed to citizens. KISA also had reports from migrants convicted for immigration related crimes i.e. illegal entry, or illegal employment without representation by a lawyer and without explaining to them that they had the right to apply for legal aid.

The Commissioner for the Protection of the Rights of the Child, in her latest 2012 report, referred to a case of a child of a migrant background, been convicted to imprisonment without being properly represented by a lawyer, a fact known both to the Court and to the prosecuting authorities who did not take all the appropriate actions so as for the child to be legally represented.

KISA urges the Government to proceed with quantitative and qualitative research on racial discrimination in the administration of justice.

Effective Remedies

The special situation of asylum seekers and migrants should be described as regards access to an effective remedy. As regards access of asylum seekers to an effective remedy in relation to their asylum claims, it has already been found by the European Court of Human Rights, in its recent decision in the case of ***M.A. v. Cyprus*** that they do not have an effective remedy. The ECtHR held that the recourse to the Supreme Court against deportation measures for persons alleging violations of Article 2 and/or 3 of the Convention in the country to be sent, is not an effective remedy as it does not bare any automatic suspensive effect. In the same case the ECtHR held also that a recourse to the Supreme Court against detention for the purpose of deportation, is also not an effective remedy as these procedures would last at an average 8 months.

Moreover, the asylum procedures in Cyprus have two instances in the administrative level: the first is the examination of an asylum application by the Asylum Service, and the second is the examination of an administrative appeal by the Refugee Reviewing Authority, against the decision of the Asylum Service. During these procedures, an asylum seeker is considered to have the right to stay in Cyprus. This right is seized upon the issuance of a negative decision of the Refugee Reviewing Authority, despite the fact that recourse is filed before the Supreme Court against the decision of the RRA. During the examination of their appeal by the Supreme Court, asylum seekers are considered to be “prohibited migrants” and are subject to arrest, detention and deportation. In case they are arrested and detained for the purpose of deportation, they have the right to file an appeal against the arrest and deportation orders. In practice, if they do so, only the deportation order may be suspended, while the detention order persists and they are detained until their appeal is examined by the Supreme Court, thus resulting in long detention periods of asylum seekers.

Asylum seekers whose applications for asylum have been rejected in the level of the administration have the right to file an appeal before the Supreme Court against the decision of the Asylum Service/Refugee Reviewing Authority. The Court however has jurisdiction only for a legality review and not of the merits and substance of the case, whereas the recourse does not bare any automatic suspensive effect, whereas on the basis of settled case law of the Supreme Court, it actually not be granted suspensive effect even if applied for, because it's negative act. This is in violation of the minimum standards of the EU Asylum Procedures Directive¹³¹. Asylum seekers, who want to file an appeal at the Supreme Court, have the right to apply for legal aid for the purposes of their appeal. The

¹³¹ Directive 2005/85/EC on the minimum standards on the procedures in member states granting or withdrawing asylum

same applies for persons who are considered to be “prohibited migrants” and against whom detention and deportation orders are issued. In both cases, the right to legal aid for the purposes of an appeal at the Supreme Court remains mostly theoretical, as in their vast majority such applications are routinely rejected by the Supreme Court on grounds that there is not any prospect of successful application, which is a condition for the approval of legal aid. Moreover, in case the interested migrant or asylum seeker is detained, such access is hindered by the authorities themselves. KISA has received many complaints from detainees, who requested to apply for legal aid in order to file a recourse at the Supreme Court against the detention and deportation orders that have been issued against them, but they have been refused access to the relevant procedures. The Police claim that it’s not their responsibility to take detainees to the Court whereas the Court Registrar demands that the persons submit applications in person if they are not represented by a lawyer. As a result, a lot of detainees, who do not have a lawyer to represent them, remain without access to the only remedy they have, which is judicial review before the Supreme Court against detention and deportation orders and/or the decision of the Asylum Service/Refugee Reviewing Authority on their asylum claim. Moreover, persons who are detained in the Mennoya detention centre, a centre specially dedicated for migrants detain to be deported, are denied such access even when they are represented by a lawyer as the Police does not escort them to the Court in order to make sworn affidavits, necessary especially for ex parte applications to suspend deportation or in habeas corpus procedures challenging the legality of their detention.

Another practice, which reveals the unequal treatment of migrants in the justice system, is the fact that pregnant migrant women and migrant women with children below the age of three are detained (in some cases for infinite periods as they cannot be deported) on detention orders issued by the Director of the Migration Department, while in the case of criminal offences the detention and imprisonment of such women by the Court is prohibited unless there is a real threat to public order and safety.¹³² The reasoning of the authorities behind the detention of migrant women, who are pregnant, or have children below the age of three is that such prohibition binds only tribunals and not administrative decisions.

KISA has dealt with many cases of pregnant migrant women and migrant women with children below the age of three, who are/have been detained on deportation and detention orders¹³³.

¹³² Article 2 of the Law for the Protection of Minor Children of Convicted or Suspect Mothers 2005 (33 (I)/2005) http://www.cylaw.com/nomoi/enop/non-ind/2005_1_33/full.html

¹³³ Currently, KISA deals with a case of a migrant woman, who is a single mother of a two-year old child and was separated from her child from December 2012 until August 2013. She was initially arrested and detained in December 2012 as a “prohibited migrant” and her child was given to foster care; KISA at the time informed the Office of the Police for Combating Trafficking in Human Beings that she had experienced trafficking for sexual exploitation. The OCTHB decided at the time and moved her to the shelter for victims of trafficking. Finally, they decided not to recognise her as a victim of trafficking, as they evaluated that the case would not have good chances for a conviction of her traffickers, and the Immigration police arrested her from the shelter and detained her until 8/8/13, when it was decided to release her, as

Circulars of the Chief of the Police

Although two circulars were issued by the Chief of the Police in 2008 and 2009 regarding “avoidance of racial conduct by members of the police” and “investigating criminal cases with a racist motives [sic]” respectively, these circulars evidently have had no impact either on the conduct of police members, or in the way the police investigate (or rather do not investigate) the possible racist motives of a crime/offence.

B. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution

Since the 2009 abovementioned circular of the Chief of Police and more recently since the enactment of the Law on Combating Certain forms and expressions of Racism and xenophobia by means of the criminal law of 2011 (Law 134(I)/2011), the Police Office for Combating Discrimination should be keeping an electronic Crime Report Registry, where offences are classified according to their motive. In this way, racist crime is supposed to be monitored and prosecuted as such. However, racist crime is not adequately or effectively monitored. One of the main problems is that members of the police force are not properly trained/educated to recognise racist motive and/or are reluctant to recognise racist motive. From KISA’s long experience, when the Police is investigating cases where racial discrimination/ racism motivated the crime, they normally try to reduce the motive to “personal disputes/conflicts.” Therefore, most offences/crimes with a racist motive are not recorded as such.

KISA currently deals with two cases denied investigation regarding homophobic and racist motives behind two attacks that led to abuses in villages in the District of Limassol. The first incident involves the fierce attack against a same-sex couple of EU citizens by some 10 Cypriot men. During the assault, the attackers beat the couple up, while shouting homophobic insults. The couple reported the incident to the local police station on the same day. While the police have brought charges against three persons for assault and causing grievous bodily harm, they have not investigated the possible racist and homophobic motives of the crime. At the same time, the couple, as they informed KISA, asked and insist for the prosecution of all the perpetrators but the police advised them not

she had meanwhile filed an asylum application and she could not be deported. During all this period, mother and two-year old child were separated, as neither the shelter nor the detention centres are fit for children.

to insist on the prosecution of all those who participated in the attack and to testify only against the three perpetrators charged¹³⁴.

The second incident involves the violent attack against a family of European citizens by a group of 20-30 Cypriot men and underage youths, led by family members of a local village dignitary. During the attack, which took place outside the assaulted family's house, the attackers beat three family members, while shouting xenophobic insults and racist threats. Prior to the incident, one of the attackers, who belongs to the close family of a local dignitary, had sexually harassed a woman of the family attacked. Police officers from the local police station arrived at the place of the attack, took relevant testimonies and then took the injured persons to the hospital for medical treatment and examinations. Subsequently, the police called two suspects to the local police station for questioning and charged them for causing unrest and disorder. The same charges, however, were also brought against the victims of the assault because the attackers claimed that they had been attacked by the family dog, which was left unattended. Nevertheless, as with the previous case, the police do not even consider the possible racist motives behind the crime. Indeed, as also reported to KISA, while their complaints referred to an attack by a group of Cypriot villagers and the individuals attacked had confirmed they could identify the attackers, the police claimed that the information provided corroborated the identification of only two individuals and could not support the case for a group assault. Furthermore, the police are not investigating the alleged sexual harassment of the woman of the said family, which preceded the attack and we do not know if it is even officially recorded¹³⁵.

KISA urges the authorities to proceed with appropriate training of police officers in the assessment, recording and investigation of racist, homophobic, sexist and xenophobic motivation in crimes committed against persons and the effective implementation of the Law on Combating Certain Forms and Expressions of Racism and Xenophobia through the Penal Law of 2011, a law that does not seem to have been implemented so far.

It should be also noted that the KISA reported numerous cases of Police abuse, ill treatment and racist attitude of the Police against migrants in detention, or while arrested or while checked for their immigration status, to the Independent Authority for Complaints against the Police, which as far as KISA is informed, did not lead either to disciplinary or criminal prosecution of police officers. All the complaints KISA has submitted or with which KISA has dealt regarding racist violence by any party (police officers, and other government officials, as well as individuals and groups of individuals), did not lead to any measures. It is also to be regretted that the Ombudswoman does not investigate the content of speeches or debates or statements made, and thus, complaints regarding racist verbal abuse (which is a very common kind of violence experienced by persons with migratory background) are never examined by any authority.

¹³⁴ KISA press release. *Need for the immediate investigation of homophobic, sexist, and racist motives behind two attacks and abuses in villages in the District of Limassol*. 4/7/2013

¹³⁵ Ibid

The arrest of a senior police officer and specifically the Deputy Chief of the Aliens and Immigration Office of the Police in March 2011 for trafficking of migrant women, including a 15-year old girl, confirms what KISA has at times publicly condemned as to the direct or indirect involvement of corrupted members of the police force in circuits of trafficking, smuggling, and exploitation of migrants. This officer represented several times the police in TV or radio discussions, in which he accused NGOs, and KISA in particular, for bribes and financial irregularities, so as to create a general negative climate against NGOs, without ever bringing any evidence or testimony against NGOs. Unfortunately, in this case most of the media either ignored or failed to refer to the relationship of the Deputy Chief of the Aliens and Immigration Police to the Director of the Civil Registry and Migration Department of the Ministry of Interior, since the decisions to actually grant residence permits were given by the Director of this Department. The Deputy Chief of the Immigration police, has been a close partner of the Director of the Migration Department and responsible for the preparation of dossiers and suggestions regarding the granting of entry permits in the Republic, the deportation of migrants, etc. for a long time¹³⁶. It is therefore questionable of the authorities ever tried to investigate corruption not only in Police but also in the Civil Registry and Migration Department.

C. Political rights

In essence, migrants have no political rights in Cyprus. Cyprus did not ratify the Convention for the Participation of Foreigners in Public Life at Local Level (1992), of the Council of Europe¹³⁷. A draft bill proposing the ratification of that Convention as well as to provide the right for long-term residents to vote in elections for local authorities has been rejected by the House of Representatives, because they did not want to open electoral rights to third country nationals, without having accurate data on how many third country nationals would be actually granted the right to vote in local elections¹³⁸.

Moreover, domestic workers (almost exclusively women) are explicitly forbidden from participating in *any kind of political activity*, as their employment contracts state that they “[s]hall not engage, contribute or in anyway, directly or indirectly take part in any political action or activity during the course of [their] stay in Cyprus.”¹³⁹

¹³⁶ KISA, press release. *Yesterday's Arrest of a Senior Police Officer*. 16/3/2011.

¹³⁷ For more details, see the Ombudswoman's report on the issue (AKP 61/2004) [http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/8A237D4E5F2C0E9FC22570300049B317/\\$file/aki61-2004.pdf?OpenElement](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/8A237D4E5F2C0E9FC22570300049B317/$file/aki61-2004.pdf?OpenElement)

¹³⁸ For more information on electoral rights for third country nationals, see Charalambidou, N. FRACIT Country Report on Electoral Rights, Cyprus available on <http://eudo-citizenship.eu/>

¹³⁹ Ministry of Interior, Civil Registry and Migration Department. *Contract of Employment [for Domestic Workers]*. [http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/4158472BAFF63E81C22578E8002D9B04/\\$file/%CE%A3%CE%A5%CE%9C%CE%92%CE%9F%CE%9B%CE%91%CE%99%CE%9F%20GR.pdf](http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/4158472BAFF63E81C22578E8002D9B04/$file/%CE%A3%CE%A5%CE%9C%CE%92%CE%9F%CE%9B%CE%91%CE%99%CE%9F%20GR.pdf)

D. Other civil rights

The right to freedom of movement and residence within the border of the State has been restricted for persons with international protection, after the recent amendment of the Refugee Law. More specifically, the amending law forbids persons with international protection from moving within Cyprus and beyond the area controlled by the Republic of Cyprus.

The right to freedom of movement and residence within the border of the State is also restricted in regards to stateless persons, as one of the requirements to apply for a residence permit is to have a valid passport. Stateless persons do not have passports, and therefore are not allowed to apply for a resident permit, even when they are members of families of EU/Cypriot citizens.

The right of migrant workers to leave Cyprus and return to their country of origin is restricted through withholding their travel documents. The practice followed by the vast majority of employers of migrants is to withhold their travel documents, although prohibited by law. This is not only tolerated by Police and Migration authorities, but even promoted so as to safeguard that in case they would like to deport migrants, their employer has their passports available. KISA has dealt with many cases that immigration police officers advised the employers to withhold the travel documents and residence permits of the migrant workers, or stated to migrant workers that their employer “has the right to withhold their travel documents and residence permits.” Although withholding of travel documents is a common complaint migrant workers report to the authorities, when they submit a complaint for labour dispute (which it is submitted first to the Immigration Police and then to the Department of Labour Relations), there has never been any prosecution of any employer for such an offence, according to our knowledge. Withholding travel documents and residence permits of migrant workers, severely restricts the right of migrant workers to freely move within Cyprus or to leave Cyprus and return to their country of origin if they would like to.

The same right is violated in regards to persons, who have experienced trafficking of human beings. Not only they experience a violation of the afore-mentioned right by their traffickers, but this right continues to be restricted by the police, which keep their passports during the procedure of examining their case and, after this, during the period it takes for the case to be prosecuted at the court. It has to be noted here that after the victims testify at the court, they no longer have the right to stay in Cyprus, and, according to the relevant law¹⁴⁰, the authorities take measures for their deportation to their country of origins. Recently, we even had a case of a woman, recognised as a victim of trafficking, who was arrested, detained, and deported by the Immigration police. It is therefore evident from this case that the fact that the police withhold the passports of the persons, who have

¹⁴⁰ The Law on Combating Trafficking and Sexual Exploitation of Minors (3(I)/2000)
http://www.cylaw.org/nomoi/enop/non-ind/2000_1_3/full.html

experienced trafficking of persons, not only restricts their right to travel, but also enables the authorities to arbitrarily deport them.

The right to nationality is severely restricted by the authorities of the Republic of Cyprus. Migrants have the right to apply for naturalisation either if they have completed seven years of legal residence in the Republic, or if they are married to a Cypriot citizen for at least three years. There is a long time of waiting period for the examination of their applications (six to seven years for those, who apply under the first category, and around three for those applying under the second category). During this period, applicants under the first category are often denied a renewal of their residence permit, while applicants under the second category are fully dependent on their spouse's permission in order to renew their residence permit. In practice, applications for naturalisation, especially under the first category are in their overwhelming majority rejected.

T/Cypriot children born out of mixed marriages between T/Cypriots and nationals of other countries, predominantly Turkey, are discriminated against as regards their right to be registered on the basis of their origin as Cypriot citizens, when their non- Cypriot parent entered or resided illegally in Cyprus. These children can only be registered on the basis of discretionary powers of the Council of Ministers. The same almost applies also with the registration of spouses of Cypriots as Cypriot citizens, the only difference being that in their case registration is not even discretionary, but completely prohibited¹⁴¹.

Children of stateless parents remain stateless, even when they are born in Cyprus, as they are denied the Cypriot citizenship. Cyprus did not ratify any of the international conventions relating to issues of nationality and statelessness.

In a nutshell, access of migrant to naturalisation is in the vast majority impossible, unless they have enough money or investments in Cyprus. Moreover, those migrants who may be naturalised because they have been married to Cypriots, risk also losing their citizenship as procedures to disenfranchise naturalised citizens are discretionary and vague¹⁴².

As regards permanent residence and family reunifications rights, the Government transposed both the EU Long-Term Residence Directive and the Family Reunification Directive with more than one year's delay.¹⁴³ The law transposing the Long-Term Residence Directive includes provisions that, in KISA's opinion, go far beyond the requirements included in the Directive in order for third-country nationals to qualify for the long-term residence status. These requirements are listed in the information provided by the Civil Registry and Migration Department to long-term third-country nationals¹⁴⁴ and the

¹⁴¹ For more information on naturalisation issues in Cyprus see Charalambidou N., Report on naturalisation procedures and Trimikiniotis N. Report on Citizenship Law available at <http://eudo-citizenship.eu/country-profiles/?country=Cyprus>

¹⁴² KISA, press release. New incident of contempt to the judicial procedures: Illegal detention and efforts to deport a migrant after 22 years of living in Cyprus and after having been naturalised as a Cypriot citizen. 8/8/2013.

¹⁴³ The transposition deadline was on 23rd January 2006 whereas the Aliens and Immigration (Amendment) Law 8(I)/2007 came into force only on 14.2.2007.

¹⁴⁴ <http://www.moi.gov.cy/moi/CRMD/CRMD.nsf/All/D0404A7FF551E8A2C22578E3002C8BDF?OpenDocument>

Information Guide on how to apply for the long-term residence status, prepared by KISA¹⁴⁵. Over and above all the said certificates, third-country nationals have to pay the application fee of 200 Euros¹⁴⁶, which is by no means comparable to any other application fee in the Republic of Cyprus for similar services and which is nearly one month's net salary of a domestic worker¹⁴⁷.

As mentioned elsewhere in this report, the Republic of Cyprus follows a "temporary" labour model for migrant workers, despite the Long-Term Residence Directive and the obligations arising therefrom. Under this model, residence permits are entirely linked to respective employment permits, in specific sectors of the economy and areas of work and to specific employers, under working terms and conditions strictly defined by the government. The maximum time of stay and employment in Cyprus (currently set at four years) is periodically regulated by the Ministerial Committee on Employment¹⁴⁸. Although permanent migration permits for employment are theoretically provided under the Aliens and Immigration Regulations of 1972, they, as a matter of general policy, have never been granted to third-country nationals because of the temporary migration model followed.

Until March 2005, the maximum period of residence and employment of third-country migrant workers in Cyprus was set at 6 years. As this policy was, however, somewhat flexible, a large number of migrants had until then resided in Cyprus for more than 6 years. In March 2005, after the Long-Term Residence Directive came into force (in 2004) and mainly due to that, the Ministerial Committee on Employment decided to reduce the maximum period of residence of third-country migrant workers to 4 years. It also decided that the resident permits of third-country nationals who, due to the previous policy, had already been in Cyprus for a period longer than 5 years should not be renewed.

Following that decision, a large number of third-country nationals, who had already resided in Cyprus for a period of at least 5 years, found themselves in a precarious position as they remained without a residence permit because the Civil Registry and Migration Department refused to renew their temporary residence permits until the transposition of the Long-Term Residence Directive, so that they would not fulfil five years of legal and continuous residence.

The authorities rejected all long term residence applications made from domestic workers on the grounds that their residence in Cyprus was of "temporary nature" and "formally restricted" and therefore excluded from the scope of the Long-Term Residence Directive on the basis of Article 3, paragraph (2), section (e) of the Directive. This has led

¹⁴⁵ http://www.kisa.org.cy/EN/mediation_and_advice/information_guide/long_term_residency/index.html

¹⁴⁶ It used to be Euro 427,15, but a recent amendment of the relevant law (the Aliens and Immigration, 8(I)/2007) reduced it to Euro 200.

¹⁴⁷ The salary of domestic workers, who form the majority of applicants for long-term residence status, is set by the State at 314 Euros per month.

¹⁴⁸ A committee consisting of the Ministers of the Interior, Labour and Social Insurance, Commerce, Industry and Tourism, and of Justice and Public Order that is not established under any law and its decisions are not published.

those third-country nationals already rejected, to file cases to the Supreme Court of Cyprus as the competent administrative Court. It is in the above context that the Supreme Court of Cyprus, on its first degree jurisdiction, started delivering various decisions as to the rights of long-term migrants, amongst which some negative and some positive¹⁴⁹.

Due to the large number of cases from third-country nationals submitted to the Supreme Court and because, in the Court's own words, "*[an] important issue ...arises [and] which concerns the implementation of the Directive*", the Court sitting in full bench, decided to examine the Case of *Cresencia Cabotaje Motilla v. The Republic of Cyprus* (case No. 673/2006), in order to set the precedence regarding the Long-Term Residence Directive. The Supreme Court accepted in full the reasoning of the Government and held that domestic worker, under the same circumstances as the applicant are excluded from the scope of the Directive and therefore the law that was subsequently passed to transpose the Directive. On the basis of that decision, the authorities rejected after that, all long term residence permit applications of migrants workers¹⁵⁰

Regarding the substance of the decision, KISA is of the opinion that the Supreme Court of Cyprus has fully adopted the position of the Government and has completely misinterpreted the provisions of Article 3(2)(e) of the Long-Term Residence Directive in a way incompatible both to the letter and the spirit of the Directive with the purpose of denying the rights of the large majority of long-term third-country nationals in Cyprus to the relevant status. It has accepted that the phrase «formally limited»¹⁵¹ in Article 3 (2)(e) of the Directive constitutes an exception from the scope of the Directive that can be justified on the basis of the general migration policy of a member state and not on an individual basis relating to the circumstances of each individual third-country national.

In essence, the Supreme Court ignored that the decisive criterion set by the Directive is the five years of legal and continuous residence and gave more weight to the exceptions of Article 3, thus completely ignoring its own case law on the general principles of administrative law and, more importantly, the CJEU case law, according to which exceptions to the rights provided under community law should be interpreted restrictively. Moreover, it considers that the immigration policies of the Republic a priori deny third-country nationals the possibility of rooting in Cyprus, irrespective of the years of residence, as the residence permits provided are all termed as «temporary» and therefore third-country nationals cannot have any legitimate expectations of having the right to remain permanently in Cyprus.

¹⁴⁹ The negative decisions up to now have been in cases where the five years of legal and continuous residence rule could not be fulfilled or because the status of the applicants, e.g. asylum seekers, was outside the scope of the Directive.

¹⁵⁰ There are currently cases before the Supreme Court challenging the Motilla judgement, but in the meantime, the authorities manage to basically send, either forcibly or "voluntarily" long term migrant workers to their country of origin.

¹⁵¹ It is important to note that the relevant clause in the Law 8(I)/2007 transposing the Directive the text reads as «formally limited **in time**»

E. Economic, Social and Cultural Rights

Although migrant workers fully contribute to the social insurance schemes, they have de facto no access to any social and economic rights, such as pension, unemployment benefit, social welfare allowance, and free medical care. Cyprus failed to sign bilateral agreements with the majority of the countries of origin of migrant workers, as a result of which and due to the temporary migration model followed, migrant workers are never able to benefit from their social insurance contributions.

Access to the labour market is restricted mainly to house work and the farming/agriculture industry, and they have no access to the state employment and job seeking mechanisms.

The only people, who have some access to some social and economic rights, apart from Cypriots and European citizens are asylum seekers, who do not have access to all the benefits (only to welfare benefits and medical care), people with international protection, and persons who have been recognised as ‘victims of trafficking.’

Asylum seekers’ access to the labour market is restricted mainly to the agricultural/farming sector, and people with international protection, although legally they enjoy equal treatment with Cypriots as regards access to employment, the only employment offers they receive by the Labour Department are also mainly in the agriculture/farming industry at a wage of 420 euro per month. Victims of trafficking are currently denied enrolment at the unemployment lists of the Department of Labour with the excuse that unemployment rates among Cypriots are already very high and therefore, non-Cypriots should not be enrolled “at the expense of Cypriots.”

Moreover, with the excuse of the current economic crisis in Cyprus, the welfare allowances of asylum seekers and people with international protection, as well as of victims of trafficking have been either revoked, or decreased, or extremely delayed. In the context of the revision of the policy of the Republic of Cyprus regarding welfare benefits, asylum seekers and persons with international protection experience new discriminatory policies, and unequal treatment. Asylum seekers and people with international protection and their families face severe surviving difficulties due first to the decision of the House of Representatives to individually examine the public allowances of anyone who is not a Cypriot, prior to their payment by the Ministry of Labour and Social Insurances and secondly, to the recent amendment of the Regulations on the Reception Conditions of Asylum Seekers. The first decision constituted a prohibited discrimination, segregating people who receive public allowances into two categories, Cypriots and non-Cypriots, and leading to unequal treatment of non-Cypriots on the basis of their ethnicity. Moreover, there have been long delays, for months, in the process of approving the payments by the Parliament, even after the submission for approval of the relevant funds by the responsible Ministry. The State finally realised how complicated and non-productive this procedure had been, but decided to propose a change in the Regulations on the Reception Conditions of Asylum Seekers, which actually worsens the living conditions of asylum seekers and their

families. The proposal was voted for by the House of the Representatives last July and its populist nature amidst the economic crisis of Cyprus is evident.

More specifically, *the (Amending) Law on Public Benefits and Services of 2013* modified the legal framework through which the Republic of Cyprus had opted to fulfil its obligations as an EU Member State for providing material reception conditions to asylum seekers, as obliged under Council Directive 2003/9/EC which sets minimum standards for the reception of asylum seekers to asylum seekers, through the provision of welfare benefits, the same way that those apply for Cypriots.

Under the weight of misleading, extreme nationalistic and populist narrative against asylum seekers and the provision of welfare benefits, from far rights and extreme parties, to be subsequently adhered to by all mainstream parties as well, the Government proceeded with the amendment of the Welfare Benefits Law and the Refugee Reception Conditions Regulations, so as to provide for the necessary material reception conditions of asylum seekers, which include housing, food and clothing, as well as healthcare, in the form of either financial allowances or in kind or in vouchers. What is of most importance however, is that the maximum allowance to be provided to asylum seekers for covering their basic needs and that would theoretically ensure a decent standard of living, **is at least half and/or one third of the welfare benefits granted to Cypriots for the same needs.** This is blatantly discriminatory. Moreover the fact alone that asylum seekers will have to satisfy their basic needs through vouchers is in itself humiliating.

As mentioned before, the employment contracts of domestic workers are prepared by the Ministry of Interior, and contain many provisions that are discriminatory per se and violate fundamental human and labour rights: “[the employee] Shall obey and comply with all orders and instructions of the Employer”, “Shall not be entitled in any way and for any reason to any increase of his¹⁵² fixed salary”, “Shall not engage, contribute or in anyway, directly or indirectly take part in any political action or activity during the course of his stay in Cyprus.” The last article basically denies domestic workers among others the right to participate in trade unions. Domestic workers have less public holidays than any other group of employees (9 days per year, as opposed to the usual 15 or 16 days) and are not entitled to any overtime pay, at least according to the employment contract. The fact that the employment contract for domestic workers has been approved by the competent Ministerial Committee indicates that there is de facto systemic discrimination, which needs to be addressed accordingly.

Not only the employment contracts of migrant workers facilitate their exploitation by employers (as shown in the above quotes), but there seems to be no just way for them to claim even the scarce rights they have under the law. When a migrant worker stops for any reason, to work as specified in their work permit, their residence permit is also

¹⁵² Another form of discrimination, as the pronouns used in the contract are only male pronouns, while the vast majority of migrant workers are women.

automatically considered revoked. They can submit a complaint for labour dispute and in order to do so they have to submit it at the Immigration Police. The Department of Labour Relations calls both the employee and the employer in a hearing. From KISA's experience, such hearings are highly problematic, as they are carried out in Greek without any interpretation, and the officers, who conduct them usually try to defend the employers. After such a hearing, if the two parties do not reach an agreement, the complaint is forwarded to the Labour Disputes Committee (under the Civil Registry and the Migration Department and constituted by a representative of the Labour Relations Department, a representative of the Director of Civil Registry and Migration Department, and a representative of the Aliens & Immigration Department of the Police), which examines it, taking into consideration the report of the Department of Labour Relations. In a lot of cases, migrant workers, even after they had been unlawfully fired by their employer, or they were forced to leave their job because of the terrible working and living conditions, are not given permission to change employer, and are ordered to leave Cyprus otherwise they will be deported. Parallel to this decision, the employer is informed of their responsibility to pay the worker any pending salaries/other rights. In case the migrant worker does not leave Cyprus, they are considered to be "prohibited migrants" and measures are taken for their removal. In case however the employer does not pay the worker their pending rights, there are no consequences against the employer, who can in the meantime employ a new domestic worker, as the decision of the Committee is only of advisory nature for the employer. The State Report claims that "the Department has redesigned its procedures so as to proceed with examination of a complaint within three weeks of the filing thereof." KISA's experience indicates that this time framework concerns the examination of the complaint by the Labour Relations Department alone. The examination of the complaints forwarded to the appropriate Committee (under the Migration Department) for further examination (and according to our experience, the vast majority of complaints for labour disputes are forwarded to this Committee), takes much longer, usually several months, and in some cases more than a year.

Another important discriminatory aspect of the work of domestic workers is their wages (currently at €314 net), which is less than half the minimum wage, which is determined by a ministerial order in relation to unskilled or semi-skilled jobs. It is important to note here that this amount has been recently fixed, after a decision the Ministerial Committee took on the 11/6/13 to reduce the salary of domestic workers by 5%.

Domestic workers and labourers in the agriculture/farming industry most of the times they do not have any other choice but to live at their place of work, even if under their contract is not obligatory. For domestic workers, this entails that they live in their employers' house. The confines of the private home, and the fact that domestic work is exempted from labour inspection and domestic workers are not organised in trade unions, allow the establishment of a feudal relationship between domestic workers and their employers, one of complete subordination and power, respectively. The same holds for labourers in the

agriculture/farming, who often live in poor and inhuman conditions, in the premises of farms and are also not organised in trade unions.

Migrant workers do not have access to public health care as a rule¹⁵³. As a result, all third-country migrants, domestic workers and labourers in the agriculture/farming industry are required to have private accident and health insurances, the cost of which is divided equally between the two parties, the employer and the employee. These schemes do not cover even basic medical care, which is vital to women, such as the Pap test and other gynaecological tests and treatments. In cases expensive medical treatment/examinations are required, employers typically refuse to pay the expenses. Thus, medical care for domestic workers and labourers in the agriculture/farming industry is either inadequate, or non-existent.

One of the most serious problems migrant workers often face is that of violence against them, either physical or psychological. A form of psychological violence is intimidation through the threat of deportation and the withholding of their passports and other personal documents. In many cases, domestic workers as well as workers in the farming or agricultural industry are trafficked for the purpose of labour exploitation.

The vulnerability of migrant women and the fact that they are most of the times victims of multiple discrimination should be emphasised. Migrant women, who are third-country nationals, have access mainly in domestic work, and in the agriculture/farming industry. A lot of migrant women are also employed in the sex industry, but not explicitly, or legally so, although with the tolerance of the authorities are more often victims of trafficking. Women, who are EU citizens, as well as women, who are part of the family of an EU/Cypriot citizen, are often employed in sectors such as the hotel and catering industry, retail trade, health and other services. Migrant women from third countries form around 70% of third-country migrants. The vast majority of domestic workers are women. Migrant domestic workers are particularly vulnerable to exploitation, abuse, and multiple discrimination, on grounds of gender, ethnic origin and sometimes religion, both direct and indirect. The complaints that reach KISA's Migrant and Refugee Centre by domestic workers indicate that a great number of migrant domestic workers work and live in conditions of slavery. Similar conditions often apply to migrant women, who work in the agriculture/farming sector, as they also have to live in their work place and are completely dependent upon their employers.

A lot of migrant women are also employed in the sex industry, usually under employment contracts as "barmaids," or "dancers" (after the repeal of the "artiste visa"). In Cyprus, prostitution is not criminalised and prostitutes may be register in social insurance as self-

¹⁵³ For more information on access to health care please see HUMA Network and Médecins du Monde: Access to healthcare for asylum seekers and undocumented migrants – Cyprus available at http://ec.europa.eu/ewsi/JDRW/images/items/docl_20498_605665099.pdf

employed persons. Prostitutes can only be Cypriot or EU nationals, and cannot employ other persons. Even though migrant women do not have access to such residence permits/licenses, they form the majority of the women in the sex industry and are exposed to exploitative circumstances by pimps, who have them work illegally and without any labour/social rights, while they often experience trafficking, and/or sexual/physical violence. There have been cases of repeated sexual violence, including rape, by different male members of the same family. Such violence is often not reported for all the obvious reasons. A domestic worker, who experiences sexual violence by her employer and who is finally forced to abandon her employment, loses her legal status with all the consequences this entails, if she does not file a complaint to the authorities within 15 days from the day she leaves her work. KISA has handled a number of such cases.

Migrant women, who are spouses of EU/Cypriot citizens, are also vulnerable to violence, especially domestic violence, as their resident status is completely dependent upon their husbands. Unless they work, they are only given resident permits as “visitors,” given to them in the form of a status of “tolerance.” Those who work, have work permits, which are also dependent upon their husbands. In case they stop living with their husbands, under any circumstances (even when they experience domestic violence), or in case their husbands report to the authorities they “don’t want them anymore,” their resident permits are revoked and they are asked to leave Cyprus under the threat of arrest and deportation.

Moreover, the Migration Officer requests as a rule from parents of mixed marriages (Cypriot/EU citizen with third country nationals) to undergo DNA tests in order to prove the paternity of the child, so as to either be granted a residence permit as a member of family of an Cypriot/EU citizen or in order to register the child as Cypriot national. DNA tests are required even in the case children have been recognised by the father. Such a requirement is not provided by law, its arbitrary and in abuse of power and violates the right to private and family life of both parents and the child. Moreover, it also creates further complications, as DNA tests are quite expensive examinations that are not covered by the public health system, and usually people cannot afford to have them. Moreover, it renders migrant parents completely dependent on their Cypriot spouse and/or Cypriot parent. For example, KISA has dealt and deals with cases that the Cypriot father has applied for the custody of the child(ren) and refuses to do the DNA test, in an effort to get the mother out of the scene (without the DNA test she cannot have a residence permit, and therefore is subject to arrest and deportation), and win the custody of the child(ren).

Persons, who have been recognised as “victims of trafficking” are required to stay in Cyprus, as they are the main witnesses of the police in the court case that has been filed against their traffickers. According to the law, as victims of trafficking, they have access to employment, access to welfare benefits, full access to health care, and they should be granted a resident permit without paying any fees. In reality, however, they find themselves, once again, in poor living conditions, without real access, or without adequate access to any of the above rights. Finding the economic crisis with which Cyprus is currently faced as an excuse, the Labour Department denies helping victims of trafficking to find

employment. Therefore, they have to depend upon the welfare benefit. The Social Welfare Services however are proved incompetent in fulfilling their responsibilities, as they usually delay their welfare benefits for long periods. Currently, victims have not received their welfare benefits since December 2012, and they are faced with eviction. Their access to medical care is also problematic, as they are often not informed of their right to apply for a medical card, while KISA also dealt with cases that victims' access to medical care has been hindered by hospital staff. Moreover, KISA deals with cases that victims have been prescribed treatment not available in the government sector, had to pay to get it, and the authorities deny to reimburse these expenses, although the law provides for them full access to medical care, free of charge. The Civil Registry and Migration Department requests victims to pay a 60 euro fee every time they apply for their residence permit, and they pay for this fee, while they are denied reimbursement by the SWS, although according the law, they should not be charged for the issuance of residence permit. Furthermore, KISA has dealt with cases that the CRMD did not issue a residence permit for the underage children of victims, and it is also typical that the issuance of resident permits is delayed for long periods of time. Cyprus has still a lot of work to do concerning the protection of persons, who are trafficked. The fact that the police are responsible for the identification of victims is also problematic. Persons, who have experienced trafficking usually do not trust the police and this is not unjustifiable, as recently KISA dealt with two cases that trafficked persons were arrested in the shelter for victims and while they were cooperating with the police for their cases; one of them was deported and the other one is still detained. Moreover, they are granted protection only if and for as long as the police need them for their criminal cases. After they testify at the court, they are requested to leave Cyprus or deported and are not granted any kind of protection anymore, nor are they informed of their right to claim compensation by their trafficker(s).

Schools, and especially high schools, lack any efficient integration programmes, as a result of which migrant children merely attend and not participate in schooling (and therefore being given "attendance certificates" instead of graduation degrees). Moreover, KISA has received reports concerning bullying of children with migrant background in school, which is motivated by racist and xenophobic feelings. A significant number of migrant children, especially teenagers, drop out school, either because they feel they do not gain anything out of it, or because of bullying, or both.

Denial or restriction of access to health care to migrant children, because of their parents' legal/migration status is also a common complaint KISA receives, despite efforts by the Commissioner for Children's Rights to grant all children irrespective of legal status, full access to healthcare, and despite an admittedly better policy (which is however exhausted in individual cases and does not constitute a general policy) on behalf of the Ministry of Health, compared to previous years, for a period of time. This is no longer the case however, as a circular of the Minister of Health requesting all public healthcare institutions to grant access to health care to any migrant child and pregnant women irrespective of their legal status, is not implemented anymore.

Separation from their families is another violation of children's rights which a lot of migrant children face. In case their parent(s) is/are considered to be "(a) prohibited migrant(s)," and is/are arrested and detained for the purpose of deportation, children are given by the Social Welfare Services to foster families while their parent(s) are in detention. In case one of the parents is considered to be a "prohibited migrant," and is arrested and detained for the purpose of deportation, while the other parent is not, then the child(ren) remain in Cyprus with the second parent, while the first is deported.

Children of migrants in Cyprus inherit the legal/migration status of their parent(s), irrespectively of the number of years in the country, or whether they were born in Cyprus. This results to children, who have spent the biggest part of their life, or even their whole life, in Cyprus, who have been schooled in Cyprus, and often with diplomas/BAs/postgraduate titles from Cyprus, finding themselves as adults without any rights, and often without any legal status, and in danger of deportation. Their legal status depends on that of their parent(s), which means that they get access to labour market as third-country nationals (i.e. in domestic work, and in agriculture/farming industry). In case their parents do not have a legal status, then they are undocumented too, and they are considered to be "prohibited migrants," and thus in risk of arrest, detention, and removal.

The Republic of Cyprus has no housing policy for migrants and refugees, as all of its housing policies have as a requirement for the applicant to be of Cypriot nationality.

Article 6: Effective protection and remedies

The lack of any cases before Courts on racial discrimination proves already the ineffectiveness of the available remedies in the country. It has been 9 years since the enactment of the race discrimination legislation, even if of limited scope, and there has not been a single case before courts. This is not irrelevant to the fact the State did not provide, as was under the obligation to do, an independent mechanism for supporting and advising victims of discrimination to pursue their rights.

According to the antidiscrimination legislation, if the complaint relates to discrimination in the employment field in the private sector, the competent courts are the Labour Courts, whereas in all other fields covered by Law 59(I)/2004 between private individuals are the District Courts (Civil Courts). If a case relates to alleged discrimination on behalf the public authorities, then the competent court is the Supreme Court under its exclusive administrative jurisdiction in accordance with Article 146 of the Constitution.

In none of the above cases, victims of discrimination are entitled to legal aid. Legal aid law limits the possibility for legal aid only in civil cases for human rights violations specified in the international treaties included in an Annex¹⁵⁴, and on administrative law cases when the case concerns decisions rejecting an asylum claim or deportation cases. Legal aid is always granted, especially in administrative law cases, provided that the applicant proves possibility of success. On asylum and immigration matters, legal aid has only been granted in a handful of cases as the applicants cannot prove possibility of success without the help of a lawyer, and they represent themselves in the legal aid procedure, whereas the state is represented by lawyers.

No legal aid is provided in labour court cases and no legal aid is provided before district courts on the basis of the antidiscrimination legislation.

As a result of the lack of cases the provisions of the antidiscrimination legislation, and in particular the provisions on the shifting of the burden of proof and the right to compensation have never been tasted.

The Ombudsman, acting in its function as the Equality Body or the Body Against Discrimination and Racism, has the competence to take and examine complaints for racial discrimination. However, the Ombudsman does not have the right to award compensation to victims and has the power only to make recommendations, to issue and publish reports and impose very low fines in case a violation of the rights of the complainant has been found. There is not enforcement mechanism, apart from the imposition of low fines, which effectively obliges those who violate the law and discriminated on ground or race or ethnic origin to comply. Moreover, in the public sector, the already weak powers of the Ombudsman, are further curtailed by the fact the Attorney General, acting in his capacity as the legal advisor of the Government and Ministries, has the final word as to whether the state should comply with the decisions of the Ombudsman.



P.O.Box 22113, 1517 Nicosia, Cyprus. Tel: + 357-22878181, Fax: + 357-22773039, email: info@kisa.org.cy, Website: www.kisa.org.cy
Τ.Θ. 22113, 1517 Λευκωσία, Κύπρος. Τηλ: +357-22878181, Φαξ: +357-22773039, Ηλ. Ταχ.: info@kisa.org.cy, Ιστ/δα: www.kisa.org.cy

¹⁵⁴ The International Convention for the Elimination of Racial Discrimination is included in these treaties, however as the rights provided therein may not be considered as directly applicable, it is impossible for any person to bring litigation procedures on the basis of the Treaty itself.