



CEDAW

Convention on the Elimination of All Forms of Discrimination against Women

SHADOW REPORT – CYPRUS 2012

Prepared by the Steering Committee of KISA

Nicosia, 25.06.2012

1. Introduction

“The Committee expresses concern about discrimination against women migrants, including domestic helpers and agricultural workers, particularly in regard to the terms and conditions of contracts and conditions of work and wages”:

(Concluding Comments of the Committee on the Elimination of Discrimination against Women In its Concluding Comments (comments 29 and 30) on the combined third, fourth and fifth periodic report of Cyprus, 30 May 2006.

KISA is a NGO, established in 1998, with the vision of promoting 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 opportunity of all, irrespective of race, nationality or ethnicity, colour, creed or gender, sexual preference or any other diversity.

KISA’s activities are focused in the fields of Migration, Asylum, Racism, Discrimination and Trafficking, and they include awareness raising of the Cypriot society about migration and asylum, discrimination, racism and trafficking as well as lobbying in order to influence the legal and structural framework, the policies and practices in these fields. A major part of KISA’s work focuses on the operation of the *Migrant and Refugee Centre*, which provides free information, advice, support, advocacy and mediation services to migrants and refugees, victims of discrimination, racism and trafficking, and it promotes the empowerment and self-organisation of migrants and refugees. In that context, KISA documents and reports incidents of racism and discrimination in the fields of employment, education, health care, social services and other sectors.

KISA cooperates with other stakeholders, independent institutions and inter-governmental bodies and agencies related to its vision and objectives, at national, regional and international level, such as the Ombudsman’ Office, the Equality Body and Anti-Discrimination Authority, the Commissioner for the Rights of the Child, the UNHCR, the Commissioner for the Protection of Human Rights of the Council of Europe, the European Committee Against Racism and Intolerance (ECRI), GRETA, the UPR Process, and others. The combination of activities of social intervention and the operation of services, which have forged strong ties with migrant and refugee communities, enable KISA to have a very accurate and updated picture about realities in its areas of work.

This shadow report on the Cyprus Government’s combined sixth and seventh periodic report to the Committee on the Elimination of Discrimination against Women, the opportunity for the submission of which KISA greatly appreciates, addresses the above

mentioned Comment of the Committee about discrimination against migrant women. Focusing on migrant women, as of our mandate, the report also endeavours to underline the extremely vulnerable position of migrant women, their almost total invisibility in national policies and plans, the gross violations of their employment and human rights, the physical, psychological and sexual violence, including rape, and the multiple discrimination they are subjected to on grounds of gender, colour, national, ethnic or cultural identity, as well as their vulnerability to trafficking for labour and sexual exploitation. The report also comments on policy measures and other actions included in the Government's report and responds to other Comments of the Committee on the previous report of Cyprus.

2. Migrant women and employment

The position of migrant women in Cyprus can be fully appreciated only in the general context of the migration model in place, its major parameters and administrative practices. Even though a number of corrective policies and measures have been developed in recent years, which purport to safeguard the labour and human rights of migrants, the basic tenets of this migration model still obtain. Instituted at the beginning of the 1990s, in agreement with the social partners, in order to meet acute labour shortages in low-skilled or unskilled jobs and in sectors such as agriculture, services, the construction and hotel industries, jobs that Cypriots would not take up, the migration model prescribes a strict short-term stay (of four years) and employment framework, which obliges migrants to sign contracts prior to their migration with a specific employer, for a specific job and in a specific economic sector. Even in cases of flagrant violations of the terms and conditions of the employment contract, a permit to change one's employer is not ensured and is subject to the administration's discretion, whilst on the contrary, there have been very few, if any at all, cases of disqualifying employers from future employment of third-country migrants when breaching an employment contract.

A determining factor in the creation and propagation of deep inequalities in the labour market between migrant workers, on the one hand, and Cypriot and other European citizens, on the other, which lead to extreme exploitation of migrants and at the same time resentment, xenophobia and racism against them, especially in the present prolonged economic crisis, is the total dependence of the migrant employee on the employer, in view of the direct connection between employment at a specific employer and the right to stay in the country, which gives the employer the power to terminate the employment and in effect the residence status of the migrant.

Another aspect of the current migration model is a large part of the entry, residence and employment process of migrants is facilitated not by state structures and mechanisms but through private profit-making agencies, Through the regulation and approval of these agencies, presumably in an attempt to impose some order on the muddle and confusion prevalent in the early years of immigration to Cyprus, the state seems to have abandoned or delegated to the private sector important aspects of the migration process. Apart from the highly problematic and dubious reasoning behind this, a direct consequence of the operation of private agencies is the extremely high cost of migration, the brunt of which is borne by migrants and, to a much lesser extent, by employer., According to information received by KISA, migrants from Vietnam, for example, are charged anything between €7000- €10000 per person, while those from Sri Lanka and other countries may be charged somewhat lower but still very large amounts. The exorbitant migration debts created as a result are partly responsible for the unwillingness and/or inability of migrants to return to their countries of origin and their ending up in the throngs of irregularity and extreme exploitation when their residence and employment permits expire or revoked.

Concomitant with the operation of private agencies is the expressed exclusion of migrants from the Public Employment Services (PES) and the continuous reliance of migrants and employers alike on private agencies, with the accompanying high fees, which in the case of migrants further burdens migration debts. It is our opinion, which we have submitted to the competent authorities, that the inclusion of migrants in the target groups of the PES, as well as employers and potential employers, with the setup of a database of employers accessible to potential migrants in their countries of origin and migrants in Cyprus, would be beneficial for all concerned. It would be particularly useful to people who urgently need to employ a carer for elderly parents or other family members requiring care, as well as to migrants who, having acquired the required release paper from a previous employer, for whatever reason, must find a new employer within one month. After the relapse of that time, migrants fall into an irregular status, with all the consequences that this entails..

It is also important to note that NGOs and migrant communities are systematically excluded from all public dialogue and debate about the migration model and employment policies or any of its constituent parameters. Similarly, in a recent review of the status and role of private agencies, the competent Ministry of Labour and Social Insurance refused to include in its consultations these stakeholders and instead it confined these to the “recognised” social partners, that is employer organisations and trade unions.

Migrant women are employed in sectors such as the hotel and catering industry, retail trade and other services, health and in the sex industry (please see the section on

trafficking for the latter). In line with the world trend of the feminisation of migration, but accentuated in Cyprus, migrant women from third countries constitute about 70% of third-country migrants. By far the biggest employment sector for third-country migrant women is that of private households, where they make up 97% of all those employed in the sector. The employment of domestic workers is directly linked to the substantial increase in the participation of Cypriot women in the labour market in the last 20 or so years, which coincides with the beginning of the arrival of migrant domestic workers. Also linked to the increased participation of Cypriot women in the labour market is the fact that domestic workers, in their role as carers of children, the old, disabled and sick, have taken on a large part of social reproduction, which continues to be considered exclusively as women's responsibility, a fact that according to the Committee causes concern (Comment 17) about "the pervasiveness of patriarchal attitudes and deep-rooted traditional social prejudices and stereotyped attitudes regarding and role and responsibilities of women and men".

Migrant domestic workers are exposed to a number of threats and risks and a position of multiple discrimination, direct or indirect, much worse than probably any other group of migrants, men or women, while the situation of a large number of them, as evidenced by the complaints of those who have applied to KISA's Migrant and Refugee Centre for advice and support over the years, resembles that of slavery.

RECOMMENDATIONS

- A comprehensive migration system should be developed that includes the replacement of the present model of 'temporary' employment of migrants tied to a specific employer;
- This policy should be developed in close cooperation and with consultation of all stakeholders, including NGOs and migrant organisations;
- Such a migration policy would facilitate the development and implementation of meaningful and comprehensive integration policies and actions and effectively combat discrimination and racism, racist violence and hate crime.
- The policy basis for the operation of private agencies should be drastically reviewed, with a perspective of abolishing them under the new migration system.
- Until the onset of the new migration system, the legal and operational framework of the Public Employment Services should be amended in order to include third-country migrants.

Discriminatory terms of the employment contract and conditions of work

Contrary to the response of the government to the Committee's Concluding Comments (29 and 30) regarding the terms and conditions of contracts and conditions and wages of work of domestic workers, and despite the high-profiled promotion of the review of the employment policy of migrant domestic workers in 2010-2011, it is noted that the employment contract for domestic workers contains many terms and provisions that are discriminatory and violate fundamental human and labour rights. Indicative of this discrimination are terms and provisions of the contract such as [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 his [another form of discrimination] 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"¹. The contract also provides for the right of the employer to dismiss the employee in the event of absence from work for more than one month, if this does not relate directly to an accident at work, and to "arrange for the deportation" of the migrant. A domestic worker has fewer public holidays than any other group of employees, (9 days per year vis-à-vis the usual 15 or 16 days throughout all sectors of the economy) and is not entitled to any overtime pay, at least according to the employment contract is concerned. The fact that such an employment contract for domestic workers has been approved by the competent Ministerial Committee clearly suggests that there is de facto systemic discrimination which needs to be recognised and addressed accordingly.

Another important discriminatory aspect of the work of domestic workers is their wages level. Notwithstanding the 10% increase in the last two years, referred to in the state party's report and included in the review of the employment policy of migrant domestic workers, the wages of a domestic worker, currently at €326 net, is still less than half the minimum wage, which is determined by a ministerial decree and applies to a number of unskilled or semi-skilled jobs and whose holders are considered to be particularly vulnerable.

RECOMMENDATIONS

- Until a new comprehensive migration system is designed and put in place, employment contracts of migrants in general and migrant women in particular

¹[http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/4158472BAFF63E81C22578E8002D9B04/\\$file/SYMBOAAIO%20GR.pdf](http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/4158472BAFF63E81C22578E8002D9B04/$file/SYMBOAAIO%20GR.pdf).

should be reviewed, all discriminatory provisions either removed or modified to conform to current legislation.

Over and above these blatant violations and discrimination emanating from the employment contract, domestic workers are also subjected to other abuses, including the following:

Hours of work and leisure

According to the employment contract, migrant domestic workers must not work more than 42 hours in a 6-day week. However, as evidenced by the large number of domestic workers who apply to KISA' Migrant and Refugee Centre for assistance and support, the working day of a migrant woman can be up to 20 hours a day. The majority of employers demand that the domestic workers work and be on call for 24 hours a day, for any kind of work they are assigned to do. Some employers demand that the domestic workers work on Sunday too, which is their one day of rest. In many cases, when employers oblige their employees to work much longer hours, this is linked to another violation of the employment contract, when they force domestic workers to work in more than one house, usually of another family member, and/or in their employer's business premises, both of which are prohibited by law.

Living conditions

The majority of domestic workers are obliged to live at their place of work, which is their employers' house and to share it with them. The confines of the private home, with its sanctity of privacy and the fact that domestic workers are exempted from labour inspection and not organised in trade unions, as a result of their isolation and other limitations barring them from accessing trade unions, provide room for a feudal relationship between domestic workers and employers, one of total subordination and domination, respectively. There is a plethora of cases reported to our Migrant and Refugee Centre, where domestic workers are treated as a second class inhabitant, with the use of bathroom and toilet restricted or a makeshift one outside the house constructed especially for this purpose, use of common rooms and cooking of own food also restricted and/or discouraged.

RECOMMENDATIONS

- Until the establishment of a new system, we urge the Government of Cyprus to initiate a system of inspection of houses where domestic workers work. The system to be designed after consultations and public dialogue with, among others, NGOs, representatives of domestic workers and of employers.

Medical care

As with all third-country migrants, domestic workers and their employers are obliged to have industrial accident and health insurance, the cost of which is divided equally between the two parties. However, in reality many employers violate the prescribed minimum standards and the medical insurance does not cover even basic medical care, which is vital to women, such as the Pap test and other gynaecological tests and treatments. Thus, instead of seeking proper medical advice, employers give domestic workers any kind of medicines without a prescription. In cases requiring expensive medical treatment, employers refuse to pay the expenses. So in essence, medical care for domestic workers is from inadequate to non-existent.

RECOMMENDATIONS

- Until a new migration system is established, we urge the Government to review the present regulations requiring migrant domestic workers and their employers to hold private medical insurance plans, and to proceed with the assessment of a new system of provision of health care to domestic workers by public hospitals and other health centres.
- The Government should also include domestic workers and other migrant women in the special health campaigns targeting women, such as the Pap test and breast cancer screenings.

Social insurance

Even though employers are obliged both by law and by the employment contract to pay social insurance contributions for their employee domestic workers, the latter do not enjoy the benefits provided for by the Social Insurance Fund, such as sick, holiday and severance pay, etc. More importantly, their contributions are not transferred to their countries of origin nor are their working years in Cyprus considered to be pensionable. As a result, migrant women and migrants in general are net contributors to the Social Insurance system of Cyprus, at the expense of the contributors and contravening the core tenet on which such systems are based, namely the principle of solidarity and mutual support. Successive governments' response to continuous calls by KISA and others to

address this flagrant injustice is that there are no bilateral reciprocal agreements with the countries of origin of migrants on the matter.

RECOMMENDATIONS

- We urge the Government of Cyprus to initiate negotiations with at least the main countries of origin of migrants with a view to concluding bilateral agreements that would facilitate the provision of pensions to migrants fulfilling the criteria set by the Social Insurance Fund returning to their countries.

Violence

One of the most serious problems domestic workers experience is that of violence against them, either physical or psychological, with most worrying those of sexual harassment, abuse and rape. A form of psychological violence is the intimidation they suffer with deportation and the withholding of their passports and other personal documents. There have been cases of repeated sexual violence, including rape, by different male members of the same family. This violence, as elsewhere, is not readily reported for all the obvious reasons. A domestic worker who falls victim to sexual violence by her employer and who is finally forced to abandon her employment automatically loses her migration status and is considered illegal, suffering all the consequences if she does not file a complaint within 15 days to the authorities,. KISA has handled a large number of such cases.

Of special concern to domestic workers and other migrant women is the attitude of many Cypriot men, who treat migrant women as 'sexual tools of second rate'. They report that they are continuously accosted and harassed when walking in the street or in other public spaces and labelled as prostitutes.

It is important to note here that the Domestic Violence legislation does cover everybody residing in the family home, irrespective of blood or other relation. As domestic workers residing in the home of their employers are therefore included by the provisions of the law and should therefore be provided protection under it. In reality, however, in most cases when domestic workers report cases of violence against them, the authorities treat them under the provisions of the General Penal Code rather than under the Domestic Violence legislation. As a specialized law, Domestic Violence legislation provides for much more effective protection of victims and stricter punishment for perpetrators of such violence. Despite repeated calls by KISA, the authorities continue to use the General Penal Code when they have reports of violence by domestic workers. The only times they activate the Domestic Violence law is when domestic workers are accused of violence against their employers or members of the employer's family.

It is evident that most of the above violations and abuses are the direct result of the legal vacuum surrounding domestic work as an occupation. It is either not recognised and therefore not protected at all by employment legislation in many countries or not adequately so. Until June 2011, this was the case at the international level as well. The adoption of the Convention on Domestic Work by the ILO has brought hope and expectations to domestic workers all over the world, who look forward to more dignity and protection of their working rights, through labour inspection and other protective mechanisms. The Cyprus Government responded positively to a joint call by KISA and the Mediterranean Institute of Gender Studies (MIGS) and did vote in favour of the Convention. However, it is not expected that Cyprus will tread the road to the ratification of the Convention alone, without at least some member states of the EU.

Despite the vulnerable position of migrants and especially migrant women, they are excluded almost entirely from all support measures and mechanisms. For example, migrant women can only submit complaints for sexual harassment to the Gender Equality Committee in Employment and Vocational Training, and not for any other grounds or reasons for discrimination because of the nature of their employment contracts. Most of the National Plans presented in the Government's report as comprehensively addressing gender discrimination and inequalities, either refer to migrant women in passing and inconsequentially (National Plan for Gender Equality) or ignore them altogether (National Plan for Combating Violence in the Family).

3. Trafficking in women, exploitation and prostitution of women

Under Article 6 of CEDAW, the Republic of Cyprus has a duty to take measures to suppress all forms of trafficking in women and exploitation of the prostitution of women.

In recent years, there has been progress in the legislation, policies and measures adopted concerning tackling trafficking and sexual exploitation of women, including the first National Action Plan to Combat Trafficking 2010-2012, and the Multi-Disciplinary Committee with the participation of NGOs as a very positive step, as stipulated in the Combined sixth and seventh periodic report of the States party. However, in practice the problem of trafficking continues unabated, predominantly affecting women and there are various problems in the practice of the government especially concerning the support, protection, integration and compensation of the victims.

While we commend the state for the abolition of the so-called “artiste” visa and its replacement by those for “creative” and “performing” artists, the applications for which are examined as in the case of other third-country migrants by the Ministry of Labour and Social Insurance, instead of the Ministry of Interior as was the case previously, the new conditions and criteria for these visas are not publicised, nor is there transparency as to where those entering the country on these visas work. KISA and other NGOs have expressed their concern that the only change brought about by the visa issue is the place where women are being trafficked and exploited, from cabarets to bars and private apartments.

As stated in the government’s report, the Police have been operating an Office for Combating Trafficking in Human Beings, which is also responsible for the identification of victims. The recognition of victims by the police is highly problematic and automatically entails the focus of the current policies on the prosecution of the perpetrators rather than on the protection of the victims, the reinstatement of their rights and their integration into the social fabric. It also causes reluctance and fear amongst victims to report cases of trafficking to the police.

In addition, media reports and information reaching NGOs and other stakeholders about corruption of police officers from other sections, at time high-ranking ones, involved in traffickers’ networks, have not up to now been seriously investigated, a fact that further contributes to lack of confidence in the police both by victims and the general public. It has to be noted that Cyprus has one of the lowest rates of identification of victims in Europe.

Trafficking victims receive social welfare benefit only until they testify in court. Immediately after their court testimonies, victims are deported back to their countries of origin, while the law provides for repatriation if the victims so wish. Deportation is also instrumental in preventing the victims from seeking compensation, which is also provided for in the law.

Furthermore, both in law and in practice even the temporary stay of the victims who do not cooperate with the police, after the reflection period, is not safeguarded. In reality, on the other hand, a victim of trafficking, regardless of her or his cooperation or not with the persecuting authorities, is still a victim and her or his rights are supposed to be protected by the international human rights law.

Another shortcoming of the administrative practices is that victims are not provided with psychological and other support and, in the rare cases they are allowed to stay on and in

the case of victims of labour trafficking, they are not allowed to change either their occupation or their employment sector.

There are also systemic issues that facilitate trafficking, linked to the migration model, policies and practices in place in Cyprus, referred to elsewhere in this shadow report. Domestic workers, who are predominantly women, are especially vulnerable to labour trafficking, largely because the majority have to reside at their place of work, which is similar for migrant women agriculture workers. Undocumented migrants are also particularly vulnerable to labour trafficking because of their precarious legal position, and along with children, mostly of Roma origin or asylum-seeking children, for the purposes of sexual exploitation and more recently for begging. Moreover, the migration policy leaves the burden of information and recruitment of migrants to private employment agencies which fundamentally disempowers migrant workers and also facilitates trafficking.

RECOMMENDATIONS

- Cypriot authorities must address the immediate and deep rooted causes of trafficking, and provide adequate, accessible and effective remedies to all women facing violence and abuse without discrimination of any kind
- Specific measures and strict policies for combating corruption in the persecuting authorities should be adopted;
- Recognition of victims is a difficult and complicated procedure, especially for the victims, and should, therefore, be undertaken by human rights based agencies or organisations, such as NGOs, which cooperate to this effect with the state;
- The police approach for prosecution purposes must follow the recognition of the victim;
- The long term or permanent stay of trafficked victims, regardless of whether they have cooperated with the authorities, should be allowed;
- The return of victims to the countries of origin must take place only on a voluntary basis and only after an informed decision by a victim and if it is to the advantage of the victim;
- Victims should be provided with psychological and other support; The migration policy should be transparent, specific regulations governing it should be publicised and easily accessible in the countries of origin of migrants so that migrants and potential victims of trafficking in persons have adequate knowledge of the regulations governing the stay and employment regime in the destination country.