

kisa

Ισότητα, Στήριξη, Αντιρατσισμός
Equality, Support, Antiracism



Comments and Observations for the forthcoming 52nd session of the UN Committee against Torture

(28 Apr 2014 - 23 May 2014)

Submitted by

KISA - Action for Equality, Support and Antiracism

April 2014



Introduction

On July 13, 2010 CAT (the Committee against Torture of the United Nations) adopted at its forty-fourth session a [list of issues](#), in line with the new optional procedure established by the Committee at its 38th session.

According to this new procedure, lists of issues are conveyed to States parties before they submit their respective periodic reports.

The Republic of Cyprus received CAT's list of issues, examined it, and submitted its combined fourth and fifth [periodic report](#) on November 30, 2012.

KISA – Action of Equality, Report, Antiracism, within the framework of its activities and within the context of the new procedure, prepares and submits its comments and observations from the perspective of a grassroots organisation regarding Cyprus' periodic reports.

KISA's comments and observations reflect the reality regarding the specific issues as experienced by KISA in its actions and daily work as an advocacy and services-providing grass root organisation in Cyprus.

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

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 and also advocating from a human rights perspective for changes of the legal and structural framework, as well as of 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, persons, who experience(d) trafficking and/or racism/discrimination, and ethnic minorities in general and promotes the inclusion, empowerment, and self-organisation of migrants and refugees. Such 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, anti-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 Ombudswoman, the Anti-Discrimination Body, the Commissioner for Children's Rights, the European Committee against Racism and Intolerance (ECRI), the Human Rights Commissioner of the Council of Europe, GRETA, etc.

KISA is also a very active member in 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.

KISA comments to the fourth and fifth periodic report of the Republic of Cyprus

Comments to paragraph 2:

It is noted that the Law Commissioner is at the same time the Commissioner for Children's Rights, which is an independent monitoring institution at national level. This double role creates confusion and shadows concerning the independence of the institution of the Commissioner for Children's Rights. Especially in relation to issues directly related to children, this amounts probably to conflict of interest, as the Commissioner for Children's Rights is a monitoring body concerned with children's rights, monitoring particularly the implementation of the UN Convention on the Rights of the Child. Full independence of the Commissioner for Children's Rights, in accordance with the Paris Principles, should not be jeopardised. [1]

KISA regrets the fact that there was no consultation with civil society organisations prior to the preparation of the report by the government. Generally speaking, in Cyprus, consultation with NGOs on any matter is poor to non-existent. NGOs are perceived by the current government more as "the enemy exposing" the government and the violations of the rights of migrants and refugees, rather than organisations of public interest striving for better democracy and for respect of the rule of law and human rights. [2]

KISA has been criminalised in the past in relation to its work and more specifically regarding its work in campaigning to end arbitrary and unlawful detention practices and policies of the Republic of Cyprus. [3]

[1] [KISA – Press Release – 04.02.2014. The UN reviews the state of human rights in the Republic of Cyprus](#)

[2] [KISA – Press Release – 17.07.2013. The "bread of Cypriots" is lost by the cost of the abusive policies of the Minister of Interior and the Director of Migration Department, not by the migrants \(Το «ψωμί των Κυπρίων» τρώει το κόστος των αυθαιρεσιών του Υπουργού Εσωτερικών και της Διευθύντριας του Τμήματος Μετανάστευσης, όχι οι μετανάστες – In Greek\)](#)

[KISA – Press Release – 29.11.2013. Minister of Interior declares war on civil society and blows up social cohesion](#)

[KISA – Press Release – 19.12.2013. The Minister of Interior with new aggressive statements continues undermining the democratic dialogue and blowing up social cohesion](#)

[KISA – Press Release – 31.01.2014. The Asylum Service is stigmatizing refugees, through unacceptable xenophobic and racist rhetoric](#)

[KISA – Press Release – 19.03.2014. The Minister of Interior did not see or hear or understand and... doesn't recognise the obvious!](#)

[KISA – Press Release – 10.04.2014. The Minister of Interior believes everyone is conspiring against him, instead of trying to deal with deficiencies in the area of human rights](#)

[3] [Institute of Race Relations – European Race Bulletin – Autumn 2008 – Bulletin No.65. "Asylum Rights: Grinding down the human rights defenders"](#)

Comments to paragraph 3:

The NAPATHB (National Action Plan Against trafficking in Human Beings) has not been evaluated for the period 2010-2012, to which the government's report refers, by external evaluators and therefore, its actual efficiency and effectiveness cannot be assessed. The grass-root experience of NGOs is that the NAPATHB was adopted as a matter of urgency before the US State Department TIP report, rather than as the result of thoughtful and collective contributions from all stakeholders involved in THB. [4]

(Further information on NAPATHB can also be found in our comments in Paragraph 68 below.)

In relation to domestic violence, the NAPPHFV does not make any particular reference to, nor does it address, the needs of migrant domestic workers, although they are considered family members under the Domestic Violence Law and very often are victims of domestic violence. [5]

[4] [Government Gazette of the Republic of Cyprus – 09.03.2012 – “Law Amendment on the Prevention of Trafficking in and Exploitation of Human Beings and the Prevention of Victims of 2012” \(Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας – Ο περί της Καταπολέμησης της Εμπορίας και της Εκμετάλλευσης Προσώπων και της Προστασίας Θυμάτων \(Τροποποιητικός\) Νόμος του 2012\)](#)

[KISA – Report – 25.06.2012. Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\) Shadow Report 2012](#)

[KISA & Cyprus Stop Trafficking Cyprus – Report – 20.06.2013. Universal Periodic Review of the Human Rights Council: Report on Cyprus](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 17.10.2013. Position paper by the Commissioner for Administration \(Ombudswoman\) as the National Independent Authority on Human Rights on the framework of prevention and combating trafficking in human beings in Cyprus \(Τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με το πλαίσιο πρόληψης και καταπολέμησης της εμπορίας προσώπων στην Κύπρο – In Greek\)](#)

[Commissioner for the Protection of Child's Rights – 03.02.2014. Position paper on the harmonization of the Directive 2011/93/EU on combating sexual abuse and sexual exploitation of children and child pornography \(Υπόμνημα Θέσεων της Επιτρόπου Προστασίας των Δικαιωμάτων του Παιδιού αναφορικά με την ενσωμάτωση της Οδηγίας 2011/93/ΕΕ σχετικά με την καταπολέμηση της σεξουαλικής κακοποίησης και της σεξουαλικής εκμετάλλευσης παιδιών και της παιδικής πορνογραφίας – In Greek\)](#)

[Commissioner for the Protection of Child's Rights – 26.03.2014. Position paper on the “Law on the Prevention of Trafficking in and Exploitation of Human Beings and the Protection of Victims of 2014” \(Υπόμνημα Θέσεων της Επιτρόπου Προστασίας των Δικαιωμάτων του Παιδιού αναφορικά με τον «περί της Πρόληψης της Εμπορίας και Εκμετάλλευσης Προσώπων και της Προστασίας των Θυμάτων Νόμο του 2014» - In Greek\)](#)

[Government Gazette of the Republic of Cyprus – 01.04.2014 – L. 60\(I\)/2014 on the Prevention and Combating of Trafficking in and Exploitation of Human Beings and the Protection of Victims of 2014 \[N.60\(I\)/2014 – Ο περί της Πρόληψης και της Καταπολέμησης της Εμπορίας και της Εκμετάλλευσης Προσώπων και της Προστασίας των Θυμάτων Νόμος του 2014 – In Greek\]](#)

[5] [KISA – Report – 30.09.2009. The Position of Migrant Women in Cyprus](#)

[KISA – Report – 25.06.2012. Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\) Shadow Report 2012](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 02.07.2013. Position Paper by the Commissioner for Administration \(Ombudswoman\) as the National Independent Authority on Human Rights on the status of domestic workers in Cyprus \(Τοποθέτηση Επιτρόπου Διοικήσεως ως Εθνικής](#)

Comments to paragraph 9:

Section 6 of the Convention against Torture and Other Cruel, Inhuman or Degrading treatment or Punishment (Ratification) Law, 1990, not only provides what is referred to in the government's report, but it also creates a rebuttable presumption that if a person detained in a police station is found during a medical examination to carry signs of abuse that they did not have before their detention, it is entailed that the person has been ill-treated by the police. However, in order for such a rebuttable presumption to be implemented properly, persons in police custody should have been examined by a doctor before they were abused, in order to confirm that they had not had any signs of ill-treatment before. This does not happen in practice for persons under custody or in detention in police stations. Moreover, this reputable presumption should not only cover persons detained in police stations, but also persons who are under police custody in any manner, such as migrants in the process of deportation, i.e. persons ill-treated by the police in the process of executing deportation measures against them. [6]

Comments to paragraph 10:

[Ανεξάρτητης Αρχής Ανθρωπίνων Δικαιωμάτων αναφορικά με το καθεστώς των οικιακών εργαζομένων στην Κύπρο – In Greek\)](#)

[6] [Commissioner for Administration and Human Rights \(Ombudswoman\) – 14.10.2009. Report on the treatment of an asylum seeker by the Cyprus Police \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με μεταχείριση αιτητή ασύλου από την Αστυνομία – In Greek\)](#)

[KISA – Press Release – 04.08.2011. Outbreak of police brutality against detainees](#)

[KISA – Video – 11.09.2011. Police Violence in Cyprus](#)

[KISA – Press Release – 05.07.2013. Immediate investigation of complaints for maltreatment of detainees at Mennogeia Detention Centre](#)

[KISA – Video – 26.07.2013. Testimony of Ali Asqari About Mennogeia Detention Center in Cyprus](#)

[KISA – Video – 19.08.2013. Testimony of Patrick About Mennogeia Detention Center in Cyprus](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 18.09.2013. Report on the allegations of immigrants abuse by the members of the Aliens and Immigration Service \(AIM\) during their arrest, detention and deportation \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων σχετικά με ισχυρισμούς κακοποίησης αλλοδαπών από μέλη της ΥΑΜ κατά τη σύλληψη, κράτηση και απέλαση τους – In Greek\)](#)

[KISA – Press Release – 30.09.2013. The authorities of the Republic of Cyprus trying to deceive the Committee for the Prevention of Torture](#)

[KISA – Press Release – 18.10.2013. KISA reports another arrest of a migrant under the pretext of a marriage of convenience and denounces his subjection to torture at the Detention Centre in Mennogeia](#)

[KISA – Press Release – 31.12.2013. The Non-accidental Suicide of a Syrian Refugee in the Central Prison: Policies leading Syrian refugees to impoverishment and destitution!](#)

[KISA – Press Release – 02.01.2014. 42 Syrian refugees are on hunger strike in the Mennogeia Detention Center for 6 whole days!](#)

[KISA – Press Release – 14.01.2014. Migrants and prisons: “Collateral damages” and the “unknown” aspects of the prison system](#)

[KISA – Press Release – 24.01.2014. No more false tears and political negligence: Another migrant dies and another suicide attempt by a detainee at Mennogeia](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) & Ministry of Justice and Public Order – 08.04.2014. Guidelines for the prevention of suicides in Prisons and Detention Centers \(Επίτροπος Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων & Υπουργείο Δικαιοσύνης και Δημόσιας Τάξης – Κατευθυντήριες Αρχές για την Πρόληψη των Αυτοκτονιών σε Φυλακές και Χώρους Κράτησης – In Greek\)](#)

The Penal Code may provide for such offences, but its provisions are applicable only as regards penal code offences and do not necessarily cover offences or crimes established under different legislation, such as the torture, inhuman and degrading treatment law. There is a legal gap when it comes to instigation, complicity, consent, and participation in torture as the relevant legislation does not cover these behaviours and actions.

As elsewhere in Cyprus, the legal framework for torture, inhuman or degrading treatment or punishment may appear quite adequate. KISA is of the opinion that the State Party should be asked to give examples and statistical data on how often the above provisions have been implemented, how many complaints have been submitted, and how many convictions have been achieved under these provisions. What is seriously lacking is the interpretation and implementation of the law, especially when it comes to racial profiling and violence against migrants and refugees by the police. [7]

A case in point is the following: On 27 November 2013, in the course of the Police Emergency Response Unit's (ERU) stop-and-search exercises of migrants, in particular of Asian and African origin, a recognised refugee was seriously injured and hospitalised for almost a month after a police officer broke the refugee's leg. The person, who experienced such evident police racial profiling and violence (the incident received wide publicity in the social media as it was video-recorded by a passer-by) filed a complaint against the ERU officers to the Independent Authority for the Investigation of Allegations and Complaints against the Police. [8] Before the report of the IAACP was finalised, the refugee was prosecuted by the Police for bodily harming the police officer, who exercised violence against him. After complaints submitted on the above treatment of the refugee, the Attorney General decided to suspend prosecution until the finalisation of the report of the criminal investigators appointed by the IAACP. Adding insult to injury, the IAACP seems to have decided that "the complainant's injury is due to his own behaviour" [sic], adding that "it was found that there was no cruel or brutal treatment against the complainant by the accused officer, who acted lawfully and in accordance with his duties." Parts of the report were publicised in the media before it was even submitted to the Attorney General and before the complainant was informed of the results of the criminal investigation, leading to further complaints, which are currently pending for examination, by him. [9]

[7] [KISA – Press Release – 08.12.2013. Resolution: Protest March Against Racial Profiling, Police Violence, Discrimination and Racism.](#)

[Fundamental Rights Agency \(FRA\) of the European Union – Report – 2010. "Towards More Effective Policing – Understanding and Preventing Discriminatory and Ethnic Profiling: A Guide"](#)

[8] [KISA – Video – 27.11.2013. Racial profiling and racist violence by the Cyprus Police \(scenes may disturb\) \[To Thema Online – 27.11.2013. Ξυλοδαρμός Αφρικανού από αστυνομικούς της ΜΜΑΔ\]](#)

[9] [KISA – Press Release – 27.11.2013. Beating and racist violence against a recognised refugee by a member of ERU in broad daylight, in the centre of Nicosia!](#)

Such a handling of a case of ill-treatment by the police is typical in the majority of complaints of ill-treatment. Instead of properly examining the complaints and before the investigation takes place, the complainant is always prosecuted by the police, for bodily harm against (a) police officer(s). Such a practice raises serious concerns over various issues, the most important of which relate to the respect of the rule of law and institutions in Cyprus. More specifically, the government should be requested to provide information as to how can the police prosecute people, since, according to the Constitution of the Republic, the only competent authority to prosecute is the Attorney General, who has the exclusive and actually absolute discretion to decide upon prosecution or suspension of prosecution. In addition, the independence of the IAIACAP is actually questioned. [10]

Comments to paragraph 12:

In its report, the State Party invokes vague and general constitutional provisions in relation to orders to torture, acknowledging the fact that there is no law to clearly and unambiguously provide that there is no obligation to follow orders to torture or ill-treat persons, or that following such orders is an offence in itself. As a result, police officers very often evoke orders by their superiors in relation to treatment of migrants. For example, a common excuse recently has been that “we arrested the mother,” or even “we detained the child,” “because of instructions by the Migration Officer...” [11]

[Cyprus Media Complaints Commission – 07.03.2014. Decision of the Cyprus Media Complaints Commission on the incident of ethnic – racial profiling and the publication of private data \(Απόφαση Επιτροπής Δημοσιογραφικής Δεοντολογίας αναφορικά με περιστατικό ρατσιστικής στοχοποίησης και δημοσίευσης προσωπικών δεδομένων – In Greek\)](#)

[Representation of the United Nations High Commission on Refugees \(UNHCR\) in Cyprus – Press Release - 18.03.2014. Statement regarding police action against African refugee](#)

[KISA – Press Release – 14.04.2014. Another extremely serious case of violation of human rights is led to suppression?](#)

[10] [KISA – Press Release – 27.11.2013. Beating and racist violence against a recognised refugee by a member of ERU in broad daylight, in the centre of Nicosia!](#)

[KISA – Press Release – 08.12.2013. Resolution: Protest March Against Racial Profiling, Police Violence, Discrimination and Racism.](#)

[KISA – Press Release – 11.03.2014. New incident of racial profiling and police abuse against a migrant by an officer of the Cyprus Police Urgent Response Unit](#)

[Representation of the United Nations High Commission on Refugees \(UNHCR\) in Cyprus – Press Release - 18.03.2014. Statement regarding police action against African refugee](#)

[KISA – Press Release – 14.04.2014. Another extremely serious case of violation of human rights is led to suppression?](#)

[11] [KISA – Press Release – 05.12.2012. Police violence against a migrant woman and her baby of only 20 months old \(Αστυνομική βία κατά μετανάστριας και του μόλις είκοσι μηνών βρέφους της – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 30.07.2013. Report on the detention of a citizen of Sri-Lanka, with a long-term residence in the country, as well as his wife and child \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την κράτηση υπηκόου Σρι-Λάνκα, με μακρόχρονη παραμονή στη χώρα, μητέρας ενός παιδιού – In Greek\)](#)

Comments to paragraph 14:

As with all the rights of detainees, there is a huge gap between what is provided for in the law and their exercise in practice. Attested to by literally hundreds of cases reported to KISA, the exercise of these rights is relegated to the arbitrary discretion of the persons in charge of a detention centre, or even of individual police officers. The comments and cases presented below provide instances of violations of such rights.

The leaflet the government refers to is not always given to detainees. Usually, the police officer in charge for the reception of a detainee shows them this document and asks the

[KISA – Press Release – 14.08.2013. KISA condemns another incident of discriminatory treatment regarding granting Cypriot citizenship to a family from Sri Lanka](#)

[KISA – Video – 07.10.2013. Mohammed & Dimitrina: Facing Institutional Discrimination and Racism](#)

[KISA – Press Release – 19.11.2013. Inhuman treatment of a family of Afghan refugees](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 02.12.2013. Report on the detention with the aim of deportation of a European citizen, mother of a baby \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την κράτηση για το σκοπό της απέλασης Ευρωπαϊκής υπηκόου, μητέρας ενός ανήλικου παιδιού – In Greek\)](#)

[KISA – Press Release – 03.12.2013. A 13 months old baby detained for crying continuously and asking for its mother!](#)

[KISA – Press Release – 12.02.2014. KISA reports inhumane arbitrary treatment of the family of a European citizen and an abuse of power by the Director of the Civil Registry and Migration Department](#)

[KISA – Press Release – 21.02.2014. New incident involving abuse of power and violation of the rights of the family of a European citizen by the Civil Registry and Migration Department](#)

[KISA – Press Release – 06.03.2014. The Cypriot state continues to persecute women through illegal arrests and detentions, separating them from their infants and underage children](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 07.03.2014. Report on the detention with the aim of deportation of the mother of a baby and witness to a criminal case against police officers \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την κράτηση με σκοπό απέλασης μίας μητέρας νηπίου και μάρτυρα κατηγορίας σε ποινική υπόθεση κατά αστυνομικών – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 12.03.2014. Position paper by the Commissioner for Administration \(Ombudswoman\) as the National Independent Authority on Human Rights on the treatment of mothers and young babies with a migrant background with the aim of deportation \(Τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την μεταχείριση μητέρων και ανήλικων παιδιών μεταναστευτικής προέλευσης για σκοπούς απέλασης – In Greek\)](#)

[Amnesty International – Press Release – 18.03.2014. Cyprus: Abusive detention of migrants and asylum seekers flouts EU law](#)

[KISA – Press Release – 19.03.2014. The Minister of Interior did not see or hear or understand and... doesn't recognise the obvious!](#)

[Representation of the United Nations High Commission on Refugees \(UNHCR\) in Cyprus – Comments on new report on Cyprus by Amnesty International](#)

[KISA – Press Release – 10.04.2014. The Minister of Interior believes everyone is conspiring against him, instead of trying to deal with deficiencies in the area of human rights](#)

[Commissioner of Human Rights of the Council of Europe – 07.04.2014. Statement by the Commissioner of Human Rights of the Council of Europe on the detention and separation of migrant women from their children](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) & Commissioner for the Protection of Child's Rights – 08.04.2014. Joint press release on the detention of mothers and / or single parents of babies \(Κοινό Ανακοινωθέν Τύπου Επιτρόπου Διοικήσεως και Ανθρωπίνων Δικαιωμάτων και Επιτρόπου Προστασίας των Δικαιωμάτων του Παιδιού σχετικά με την κράτηση μητέρων και / ή μονογονιών ανήλικων παιδιών – In Greek\)](#)

detainee to sign it in order to keep it for their individual file without the detainee knowing the content of the leaflet.

Also, the leaflet includes only the rights of detainees in relation to detention, but not in relation to migration (the right to appeal the detention/deportation orders, the right to apply for legal aid in order to appeal against detention/deportation orders, etc).

The same practice is followed regarding detention and deportation orders. The arrested migrant is usually asked to sign the detention and deportation orders issued by the Director of the Civil Registry and Migration Department, but the signed document is held by the administration of the detention facilities, which does not give the detainee a copy of it. ^[12]

Comments to paragraph 15:

When the authorities are faced with obstacles regarding the deportation of a detainee due to the fact that they do not have travel documents/ their country does not accept them/they cannot be forcibly returned to their country (for example Syrians)/ they are members of families with which the authorities have difficulties to return all members to the same country, they are usually put systematically under psychological pressure with misleading information in order to withdraw their application for asylum, if the examination of such an application is still pending, or in order to refrain from submitting an application for asylum, in case they want/should to, or to “consent” for their deportation and sign that they “voluntarily wish” to return to their country of origin.” ^[13]

^[12] [Commissioner for Administration and Human Rights \(Ombudswoman\) – 16.05.2013. Report on the visits that were conducted in the Mennogeia Detention Center for Migrants on the 14th of February, 3rd of April and 19th of April of 2013 \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τις επισκέψεις που διενεργήθηκαν στο Χώρο Κράτησης Μεταναστών στη Μεννόγεια στις 14 Φεβρουαρίου, 3 Απριλίου και 19 Απριλίου 2013 – In Greek\)](#)

^[13] [KISA – Report – 31.10.2007. The Uprising of Block 10 Detainees in Cyprus: Chronology of Events, Conclusions and Future Action](#)

[KISA – Press Release - 31.01.2008. Protest for the release of 7 detainees in long term detention without a trial \(Διαμαρτυρία για την απελευθέρωση 7 κρατουμένων για μεγάλο διάστημα και χωρίς δίκη – In Greek\)](#)

[Amnesty International – Press Release – 29.09.2009. Urgent action required: Syrian Kurd disappears, risk of torture](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 12.10.2009. Report on the detention of asylum seeker, while his appeal was pending before the Refugees Reviewing Authority \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την κράτηση αιτητή ασύλου, ενώ εκκρεμούσε η προσφυγή του ενώπιον της Αναθεωρητικής Αρχής Προσφύγων – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 14.10.2009. Report on the treatment of an asylum seeker by the Cyprus Police \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με μεταχείριση αιτητή ασύλου από την Αστυνομία – In Greek\)](#)

[KISA – Press Release – 14.12.2010. No to the dispatch of Kurds to the dungeons of the Syrian regime!](#)

[KISA – Press Release – 03.02.2011. Dead migrant in an operation of the Alien and Migration Service \(Νεκρός σε επιχείρηση της Υπηρεσίας Αλλοδαπών και Μετανάστευσης – In Greek\)](#)

[KISA – Press Release – 04.08.2011. Outbreak of police brutality against detainees](#)

Comments to paragraph 18:

As far as detention of migrants for the purpose of deportation is concerned, KISA's experience reveals that the right of detained persons to have confidential meetings with their lawyer is not respected. In the detention centre in Mennogeia there is only one room where detained persons can meet with their lawyers. As a result, and because often more than one meetings take place at the same time in this room, confidentiality, which is an important element of the relationship of any person with their lawyer and which can affect one's legal case, is not possible. Moreover, KISA has received complaints by migrants in detention regarding denial of their right to send and receive letters or other court documents to/from their lawyers. Confidentiality is again violated, since migrants, who are in detention, have to give the administration of the detention centre any documents they

-
- [KISA – Video – 11.09.2011. Police Violence in Cyprus](#)
[KISA – Press Release – 21.12.2011. Cyprus continues illegal detentions in contempt of national and international court decisions](#)
[KISA – Press Release – 11.06.2013. KISA condemns the violation of the Geneva Convention Relating to the Status of Refugees and the European Convention on Human Rights](#)
[KISA – Press Release – 26.06.2013. 21 Syrian Refugees are on Hunger Strike at Mennogeia Detention Centre](#)
[KISA – Press Release – 05.07.2013. Immediate investigation of complaints for maltreatment of detainees at Mennogeia Detention Centre](#)
[KISA – Press Release – 12.07.2013. KISA condemns the Republic of Cyprus for refugees' delivery in the military dungeons of Turkey and Syria](#)
[KISA – Press Release – 17.07.2013. The “bread of Cypriots” is lost by the cost of the abusive policies of the Minister of Interior and the Director of Migration Department, not by the migrants \(Το «ψωμί των Κυπρίων» τρώει το κόστος των αυθαιρεσιών του Υπουργού Εσωτερικών και της Διευθύντριας του Τμήματος Μετανάστευσης, όχι οι μετανάστες – In Greek\)](#)
[Amnesty International – Press Release – 18.07.2013. Urgent action – Conscientious Objector detained in Turkey](#)
[Amnesty International – Press Release – 18.07.2013. Turkey – Conscientious objector detained in Turkey](#)
[European Court of Human Rights \(ECHR\) – 230 \(2013\) Press Release – 23/07/2013. Lack of an effective remedy in relation to deportation and unlawful detention of Syrian national](#)
[European Court of Human Rights \(ECHR\) – Judgment – \(Application No. 41872/10\) M.A. v. Cyprus](#)
[KISA – Press Release – 23.07.2013. Unanimous decision of the European Court of Human Rights condemns the Republic of Cyprus: Lack of an effective remedy in cases of deportation and detention of asylum seekers and unlawful detention aiming to deportation](#)
[KISA – Video – 26.07.2013. Testimony of Ali Asqari About Mennogeia Detention Center in Cyprus](#)
[KISA – Press Release – 19.11.2013. Inhuman treatment of a family of Afghan refugees](#)
[KISA – Press Release – 03.12.2013. A 13 months old baby detained for crying continuously and asking for its mother!](#)
[KISA – Press Release – 31.12.2013. The Non-accidental Suicide of a Syrian Refugee in the Central Prison: Policies leading Syrian refugees to impoverishment and destitution!](#)
[KISA – Press Release – 02.01.2014. 42 Syrian refugees are on hunger strike in the Mennogeia Detention Center for 6 whole days!](#)
[KISA – Press Release – 14.01.2014. Migrants and prisons: “Collateral damages” and the “unknown” aspects of the prison system](#)
[KISA – Press Release – 24.01.2014. No more false tears and political negligence: Another migrant dies and another suicide attempt by a detainee at Mennogeia](#)
[KISA – Press Release – 05.02.2014. The good, the bad and the ugly: Arrest of Syrian refugees, a staged “coordinated operation” by the police and fuelling the racist propaganda of extreme right](#)

want to send by fax, as detainees are not allowed to send any fax on their own. Also, when a lawyer faxes any documents to their client, who is in detention, these documents are first received by the administration of the detention centre. Moreover, the administration of the detention centre in Mennogeia asks detainees to sign a declaration that they want or not to be represented by the lawyer visiting them, in order to allow the visit. This practice raises concerns in relation to the reasons and the circumstances under which detainees sign declarations that they do not want to be represented by certain lawyers, who try to visit them after the detainees themselves contacted them and sought their services.

Furthermore, even though under the law a lawyer can visit a migrant in detention anytime, sometimes visits are arbitrarily forbidden by the administration of the detention centre in Mennogeia.

Migrants detained in police stations for the purpose of deportation are not entitled to the right to use their mobile phones without restrictions. Usually, they can only get them from the administration for one hour per day in order to make or receive their calls. Moreover, persons, who are detained in the detention centre in Mennogeia, even though they have their mobile phones with them, they cannot always use them, because the administration of the centre arbitrarily cuts off the signal of the network for several hours per day.

Finally, NGOs are only allowed to visit detainees if they obtain written permission by the Chief of the Police. This procedure is time consuming and thus, it cannot apply, as issues related to the rights of persons in detention require immediate actions. [14]

Comments to paragraph 19:

The Aliens and Immigration Law provides that undocumented migrants subject to a return decision or deportation orders have the right to emergency medical care and also to necessary treatment of their health condition. However, the public health care facilities, including hospitals, apply the law on hospitals, which does not list immigration detainees

[14] [Commissioner for Administration and Human Rights \(Ombudswoman\) – 25.09.2009. Report on the complaint of a prisoner in the Central Prison for listening her phone conversations and violating the classified correspondence \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με παράπονο κρατούμενης στις Κεντρικές Φυλακές για παρακολούθηση των τηλεφωνικών συνδιαλέξεων και παραβίαση του απορρήτου της αλληλογραφίας – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 16.05.2013. Report on the visits that were conducted in the Mennogeia Detention Center for Migrants on the 14th of February, 3rd of April and 19th of April of 2013 \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τις επισκέψεις που διενεργήθηκαν στο Χώρο Κράτησης Μεταναστών στη Μεννόγεια στις 14 Φεβρουαρίου, 3 Απριλίου και 19 Απριλίου 2013 – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 06.03.2014. Report on the right of detainees in Mennogeia Detention Center for Migrants to send letters by fax \(Έκθεση της Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων όσον αφορά το δικαίωμα αποστολής επιστολών με τηλεομοιότυπο από κρατούμενους στο Χώρο Κράτησης Μεταναστών στη Μεννόγεια – In Greek\)](#)

and undocumented migrants as persons entitled to treatment, other than emergency care. KISA has dealt with cases of migrant detainees with chronic diseases (nephropathies, hepatitis, etc.), who were/are denied access to medical treatment because of this.

The leaflet “Notice to Persons in Custody” is handed out usually only to detainees of the detention centre in Mennoya, but undocumented migrants and other migrants considered to be “prohibited immigrants” are detained in various police stations too, where such a leaflet is not available or it is not given to detainees in practice. However, KISA has received various complaints by persons detained in the detention centre in Mennoya, according to which such a leaflet is shown to them upon their arrival at the centre and they are asked to sign they have received it, but they have to return it to the administration of the centre – they are not allowed to keep it. Further information can be found in comments to paragraph 14.

As a general rule, if detainees want to visit a doctor, they first have to inform a police officer. If the police agree, the detainee can be taken to a hospital, but this involves a cumbersome and slow procedure. For health problems that are considered to be minor, persons in detention are not referred to a doctor, but are given medicine without prescription – usually painkillers. Police officers determine which health problems are considered to be minor and when and if a detainee can be taken to hospital for consultation with a health expert. In case the administration of the centre agrees for a detainee to be referred to a doctor, medical consultations take place in the hospital, which is closest to the detention facilities the detainee is detained.

Usually, detainees do not receive on time or upon request access to health care, due to practical issues (for example not enough police officers/ staff during the shifts, so as for some of them to be able to be outside the facilities for several hours). In some cases however, it seems that such a delay is related to punishment of “difficult” detainees.

KISA has received numerous complaints by persons detained in the detention centre in Mennoya, who report that as soon as they are taken out of the centre, detainees are handcuffed. This happens even during their visits to hospital and during consultation with a doctor. The police stay with them during the consultation and persons in detention are not allowed any privacy while talking to health professionals in general. A person who was detained in the detention centre in Mennoya reported that when he complained because he was handcuffed in order to be taken to hospital, the staff of the centre insulted and ridiculed him. Even in cases when a person is not referred to hospital and is given painkillers instead, they are handcuffed in order to be taken to the special room in the centre where medicines are kept.

According to the experience of KISA, interpretation/translation is never provided to detainees during medical consultation. Hospitals do not offer such services anyway and the

police never arrange for such services to be available. KISA has received many complaints by persons in detention, who report that the police discuss with the doctor/other health professional about their health condition and they cannot participate in the conversation, or comprehend it, as no interpretation/translation is provided. [¹⁵]

Furthermore, KISA has received many complaints by persons in detention, who report that when they ask to be referred to hospital after being beaten up by the police, the administration of the detention centre refuses to refer them immediately for medical consultation. In many cases, complainants were transferred to a hospital one or more days after the incident and the police, who always accompany them during the medical consultation, did not allow them to speak directly with the doctor/health professional.

A detainee in the detention centre in Mennoyia reported that at the end of March 2013 many detainees refused to go back to their cells in protest regarding the quality of food. The police threatened to “massacre them” and, because the protesters did not respond to the threats, the police beat them up with truncheons. The following day and because they were complaining, they were taken to hospital and the police told the doctor who examined them that they had been injured while playing football. As the police were present during the examination, detainees could not reveal to the doctor that their injuries were caused by the police. [¹⁶]

Finally, medical treatment is not always provided to persons in detention. KISA has dealt with many such cases. Some of them are described below:

In August 2013 the media in Cyprus gave wide publicity to a claim made by the police that tuberculosis was transmitted to a police officer by a detainee. The detainee was detained for one day only before she was deported to Iran without receiving any medical treatment. [¹⁷]

[¹⁵] [Commissioner for Administration and Human Rights \(Ombudswoman\) – 16.05.2013. Report on the visits that were conducted in the Mennoyia Detention Center for Migrants on the 14th of February, 3rd of April and 19th of April of 2013 \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τις επισκέψεις που διενεργήθηκαν στο Χώρο Κράτησης Μεταναστών στη Μεννόγεια στις 14 Φεβρουαρίου, 3 Απριλίου και 19 Απριλίου 2013 – In Greek\)](#)

[¹⁶] [KISA – Press Release – 26.06.2013. 21 Syrian Refugees are on Hunger Strike at Mennoyia Detention Centre](#)

[KISA – Press Release – 05.07.2013. Immediate investigation of complaints for maltreatment of detainees at Mennoyia Detention Centre](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 18.09.2013. Report on the allegations of immigrants abuse by the members of the Aliens and Immigration Service \(AIM\) during their arrest, detention and deportation \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων σχετικά με ισχυρισμούς κακοποίησης αλλοδαπών από μέλη της ΥΑΜ κατά τη σύλληψη, κράτηση και απέλαση τους – In Greek\)](#)

[¹⁷] [ANT1 – Press Article – 25.08.2013. Police officer with tuberculosis who was infected by detainee \(Αστυνομικός με φυματίωση που προσεβλήθη από κρατούμενη – In Greek\)](#)

V.K. was detained in the detention facilities of Lakatamia police station in 2013. V.K. is HIV positive and she was at the time in custody for a criminal offence. She was denied access to treatment (she had been in HIV treatment prior her arrest), despite the fact she repeatedly asked to get her medication and KISA had contacted the administration of the detention facilities and asked to give her access to her medication. More details regarding the case can be found in comments to paragraph 23 below.

Comments to Paragraph 20:

Not applicable in practice to migrant detainees, who are detained for the purpose of deportation (see comments to paragraph 19 above).

Comments to Paragraph 21:

Not applicable in practice to migrant detainees, who are detained for the purpose of deportation (see comments to paragraph 19 above)

Comments to Paragraph 22:

In relation to the detention of migrants for the purpose of deportation, there is no possibility for in-house medical treatment in the detention centre, even though this is provided for in the regulations/the Law. Detainees need to be transferred to the nearest hospital, which is in Larnaca and this is done at the discretion of the Immigration Police. ^[18] Further information can be found in the comments to paragraph 19 above.

[24hours – Press Article – 25.08.2013. Woman police officer with tuberculosis at the Kyperounta Hospital \(Στο Νοσοκομείο Κυπερούντας γυναίκα αστυνομικός με φυματίωση – In Greek\)](#)

[Alitheia – Press Article – 25.08.2013. Police officer with tuberculosis in Kyperounta Hospital for two months \(Στο Νοσοκομείο Κυπερούντας για δύο μήνες αστυνομικός με φυματίωση – In Greek\)](#)

[Haravgi – Press Article – 26.08.2013. Woman police officer infected by tuberculosis \(Γυναίκα αστυνομικός προσβλήθηκε από φυματίωση – In Greek\)](#)

[Kathimerini – Press Article – 25.08.2013. Two months in the Kyperouynta Hospital, the woman police officer infected with tuberculosis \(Δύο μήνες στο Νοσοκομείο Κυπερούντας, η αστυνομικός με φυματίωση – In Greek\)](#)

[Fileleftheros – Press Article – 25.08.2013. Woman police officer with tuberculosis: She was infected by an Iranian detainee \(Γυναίκα αστυνομικός με φυματίωση: Την κόλλησε από Ιρανή κρατούμενη – In Greek\)](#)

[Foni Lemesou – Press Article – 25.08.2013. Police officer with tuberculosis is hospitalized in Kyperounta Hospital \(Αστυνομικός με φυματίωση νοσηλεύεται στο Νοσοκομείο Κυπερούντας – In Greek\)](#)

[ELAM \(Ethniko Laiko Metopo – National Popular Front\) – Press Release – 27.08.2013. Police officer hospitalized with tuberculosis \(Αστυνομικός στο νοσοκομείο με φυματίωση – In Greek\)](#)

^[18] [Commissioner for Administration and Human Rights \(Ombudswoman\) – 16.05.2013. Report on the visits that were conducted in the Mennogeia Detention Center for Migrants on the 14th of February, 3rd of April and 19th of April of 2013 \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τις επισκέψεις που διενεργήθηκαν στο Χώρο Κράτησης Μεταναστών στη Μεννόγεια στις 14 Φεβρουαρίου, 3 Απριλίου και 19 Απριλίου 2013 – In Greek\)](#)

Comments to Paragraph 23:

KISA has received many reports by migrants for involuntary medical examinations upon their detention. Some examinations are carried out without informing the persons in detention that they have the right not to consent to them. The experience of KISA reveals that this is particularly the case with persons who are considered to be “at high risk of infectious diseases,” such as migrants in general, but also sex workers and transgender persons. Moreover, as a general rule, the police, in case the medical results are positive, and especially concerning STDs, reveal detainee’s health data indiscriminately to various authorities and services (such as the Social Welfare Services, the Civil Registry and Migration Department, etc.) and also to individuals (especially members of the detainee’s family) and, in some cases, even to the media, without ever obtaining such consent by the persons involved. KISA has dealt with the case of a person from Iran, M.Z., who was detained for a long time and found to be positive to hepatitis. The police not only informed all services involved and his family of his medical record, but, when, after his release, M.Z. was in the process of applying for a residence and work permit, the police informed potential employers who asked for his legal status and the conditions for his access to employment of his medical history, advising them not to employ him. As a result, M.Z. could not obtain a residence permit and was again arrested and detained.

Moreover, in many cases, when a counsellor at KISA’s Migrant and Refugee Centre contacted the police and especially the police in detention facilities for specific cases, the police revealed to them the medical history of the persons concerned, although they never asked to be informed of their medical history.

Furthermore, from KISA’s experience, persons who are found to be positive to STDs are detained in isolation and often without the right to visits or phone calls and without being allowed to spend any time at all in the yard. It is important to note here the case of a trans woman, V.K., who was detained in the detention facilities of Lakatamia police station in 2013. V.K. is HIV positive and was in custody for a criminal offence. When KISA called the detention facilities to obtain permission to visit her, the police informed KISA that “due to the fact she is HIV positive, she is not allowed to have visits.” After a long discussion with them, KISA was finally allowed to visit her, but the police strongly recommended us not to (“for your own health safety”). KISA was finally granted permission, but with the request not to reveal our visit. After the visit, KISA submitted a complaint to the Ombudswoman regarding the fact that: V.K. was refused visits and phone calls during her detention based on her medical condition, which was undisclosed to anybody contacting the police about her and V.K. was denied access to treatment (she had been in HIV treatment prior her arrest).

Another case, which is indicative of the violations of rights of persons with STDs, who are

detained, is the case of L.M.Y.N., who was detained in 2010 after the rejection of her asylum application. L.M.Y.N. was detained for almost two months in Astromeritis police station in conditions of complete isolation and later she was transferred to Block 9 detention facilities. Upon her arrival and following directions by the heads of the detention facilities, all staff members and all detainees gathered and were informed in front of her of her HIV status. They were also informed that she would use separate hygiene facilities for this reason. After the disclosure of this information, both the staff and the detainees avoided any kind of contact with her and treated her with aversion. Nobody ever touched her, not even to give her her food and medication, which the staff threw in her cell and she had to pick up from the floor. As a result, L.M.Y.N. was isolated and developed feelings of inferiority, humiliation, and fear. L.M.Y.N. filed, through her lawyer, a complaint to the Ombudswoman regarding the above. The report of the Ombudswoman confirms all of the above and mentions that the Head of the detention facilities also confirmed the disclosure of L.M.Y.N.'s HIV status to all detainees and members of staff: "As it was frequently expressed during the discussion, the officers in charge of the detention facilities considered that it was their obligation to inform in detail both the staff and all the detainees of that particular disease, so as not to put them at risk because of its contagiousness. Even though everyone knew how the disease is transmitted (sex, blood), they were of the opinion that the possibility of transmission within a detention facility, where staff and detainees come into direct and daily contact could not be ruled out. For this reason, they considered it was their duty to protect the staff and other detainees via the full disclosure of the health data of the complainant." (p.4) L.M.Y.N. was detained in Block 9 for five days and then she was transferred to the detention facilities of the police station in Ayios Dometios, where she was the only detainee. An officer from the office of the Ombudswoman visited L.M.Y.N. at the police station in Ayios Dometios in the context of investigating her complaint. The Ombudswoman mentions in her report that the officer in charge of the police station informed in detail the officer of the health status of L.M.Y.N. upon her arrival at the police station and advised her to keep an "appropriate" distance from her, "so as not to put herself at risk of transmission." (p.7) The Ombudswoman, in her conclusions, expresses the views that "the concerns of the officers in charge of the detention facilities, as well as the attitude of the officer in charge of the police station in Ayios Dometios reveal prejudice and ignorance that unfortunately persist." (p.7-8) She also concludes that "during her detention the complainant received inhuman and degrading treatment both because of the disclosure of her health data and because of the contempt with which she was treated after the disclosure." (p. 8) Moreover, the Ombudswoman notes that "the case of the complainant reveals the lack of a specific policy regarding the treatment of persons, who are in detention and under deportation and who carry a transmissible disease." (p. 8). [19]

[19] Commissioner for Administration and Human Rights (Ombudswoman) – 08.07.2010. Report on the complaint with No. 1188/2010 regarding the treatment of a third country national who is detained for deportation and is HIV positive (Έκθεση Επιτρόπου Διοικήσεως αναφορικά με το παράπονο με αρ. Α/Π 1188/2010 σε σχέση με τη μεταχείριση υπηκόου τρίτης χώρας που βρίσκεται υπό κράτηση για σκοπούς απέλασης, η οποία είναι φορέας του ιού HIV – In Greek – Confidential, Not Published)

The case described in comment 19 above of a migrant detainee, who was deported without receiving treatment, despite the fact she was diagnosed with tuberculosis, is also indicative of the common practice of the police to reveal detainees' health status/history without their consent. The police do not hesitate to reveal the health data of migrant detainees to the media, which use the information spreading xenophobia and racism. All media highlighted the migratory and ethnic background of the person, who was detained and had tuberculosis, but none raised questions regarding to how such a claim could be substantiated, especially taking into consideration that the person was in detention for only one day, or in relation to the fact that the person was deported without receiving any health treatment. Instead, the media, using the allegations of the police, created the impression that migrants are dangerous for carrying contagious diseases. E.L.A.M. – National Popular Front (a far-right wing political group, which very often propagates against migrants, presenting them to be a threat against the purity of the nation) also seized the opportunity to spread racism and xenophobia. In a relevant article, it claimed that migrants will cause “an outbreak of such “forgotten” infectious diseases.” The article states that “our very lives are in danger because of illegal [sic] migrants” and that “our [Cypriot] children are in immediate danger, because they are obliged to go to school with the children of illegal [sic] migrants.” This case raises concerns regarding the ability of the Republic of Cyprus to safeguard the protection of sensitive personal data of detainees and at the same time such data are used to justify racist and xenophobic policies. [20]

Finally, very often, persons in detention who go on hunger strike protesting against their detention and/or detention conditions, and/or persons who are considered by the administration of detention facilities to be “trouble makers” are referred to psychiatrists who recommend without serious examination their hospitalization in a mental hospital without their consent. The recommendation of the doctor is then taken by the police to a Judge who orders the obligatory hospitalization and medical treatment for a certain period

[20] [ANT1 – Press Article – 25.08.2013. Police officer with tuberculosis who was infected by detainee \(Αστυνομικός με φυματίωση που προσεβλήθη από κρατούμενη – In Greek\)](#)

[24hours – Press Article – 25.08.2013. Woman police officer with tuberculosis at the Kyperounta Hospital \(Στο Νοσοκομείο Κυπερούντας γυναίκα αστυνομικός με φυματίωση – In Greek\)](#)

[Alitheia – Press Article – 25.08.2013. Police officer with tuberculosis in Kyperounta Hospital for two months \(Στο Νοσοκομείο Κυπερούντας για δύο μήνες αστυνομικός με φυματίωση – In Greek\)](#)

[Haravgi – Press Article – 26.08.2013. Woman police officer infected by tuberculosis \(Γυναίκα αστυνομικός προσβλήθηκε από φυματίωση – In Greek\)](#)

[Kathimerini – Press Article – 25.08.2013. Two months in the Kyperouynta Hospital, the woman police officer infected with tuberculosis \(Δύο μήνες στο Νοσοκομείο Κυπερούντας, η αστυνομικός με φυματίωση – In Greek\)](#)

[Fileleftheros – Press Article – 25.08.2013. Woman police officer with tuberculosis: She was infected by an Iranian detainee \(Γυναίκα αστυνομικός με φυματίωση: Την κόλλησε από Ιρανή κρατούμενη – In Greek\)](#)

[Foni Lemesou – Press Article – 25.08.2013. Police officer with tuberculosis is hospitalized in Kyperounta Hospital \(Αστυνομικός με φυματίωση νοσηλεύεται στο Νοσοκομείο Κυπερούντας – In Greek\)](#)

[ELAM \(Ethniko Laiko Metopo – National Popular Front\) – Press Release – 27.08.2013. Police officer hospitalized with tuberculosis \(Αστυνομικός στο νοσοκομείο με φυματίωση – In Greek\)](#)

of time, without hearing the detainee. [21]

Comments to Paragraph 24:

As mentioned above, migrant detainees are not always given a leaflet informing them of their rights and obligations. This is the case at the Mennoyia detention centre. Moreover, detainees are also not informed either of the protection that victims of trafficking can seek or of the possibility to apply for asylum while in detention.

Regarding communication rights, detainees are not provided with a list of contacts of NGOs or lawyers. Also, if detainees do not have enough money to pay for legal services, they are not informed of their right to apply for free legal assistance. If detainees can obtain the contact details of a lawyer or an NGO with the help of other detainees, they are not always allowed to send faxes to this contact. Communication with the outside world is highly restricted, as detainees in most detention places are not allowed to have their mobile phones with them. Phones are usually kept in lockers and detainees are allowed to use them only one hour per day. As a consequence, they have difficulties communicating with their lawyers and/or NGOs and/or other human rights organisations. [22]

Violence is not always exercised as a “last resort.” KISA has reported cases of detainees who protested against a rule in detention facilities by refusing to go back to their cells for instance. The response of the centre administration was to make use of violence to stop the protest, beating detainees up. Detainees injured in such incidents are not always examined by a doctor immediately. If they are, the police misinform the doctor regarding the

[21] [KISA – Press Release – 26.06.2013. 21 Syrian Refugees are on Hunger Strike at Mennoyia Detention Centre](#)

[KISA – Press Release – 05.07.2013. Immediate investigation of complaints for maltreatment of detainees at Mennoyia Detention Centre](#)

[KISA – Press Release – 02.08.2013. Detainee from Pakistan under deportation from hunger strike ended up in mental hospital!](#)

[KISA – Press Release – 30.09.2013. The authorities of the Republic of Cyprus trying to deceive the Committee for the Prevention of Torture](#)

[22] [Commissioner for Administration and Human Rights \(Ombudswoman\) – 25.09.2009. Report on the complaint of a prisoner in the Central Prison for listening her phone conversations and violating the classified correspondence \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με παράπονο κρατούμενης στις Κεντρικές Φυλακές για παρακολούθηση των τηλεφωνικών συνδιαλέξεων και παραβίαση του απορρήτου της αλληλογραφίας – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 16.05.2013. Report on the visits that were conducted in the Mennoyia Detention Center for Migrants on the 14th of February, 3rd of April and 19th of April of 2013 \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τις επισκέψεις που διενεργήθηκαν στο Χώρο Κράτησης Μεταναστών στη Μεννόγεια στις 14 Φεβρουαρίου, 3 Απριλίου και 19 Απριλίου 2013 – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 06.03.2014. Report on the right of detainees in Mennoyia Detention Center for Migrants to send letters by fax \(Έκθεση της Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων όσον αφορά το δικαίωμα αποστολής επιστολών με τηλεομοιότυπο από κρατούμενους στο Χώρο Κράτησης Μεταναστών στη Μεννόγεια – In Greek\)](#)

detainees' injuries. [23]

The Committee for the Prevention of Torture of the Council of Europe (CPT) visited the detention centre in Mennogeia in September 2013. Merely hours prior to the visit of CPT, the administration of the Detention Centre in Mennogeia transferred seven detainees that they were detained illegally and in violation of international and European treaties on human rights, as well as of European and national legislation, outside the centre. [24]

Comments to Paragraph 25:

(a) Again, contrary to the provisions of the law, detainees under 18 years are usually unaccompanied minors who are arrested for using false documents in order to travel to another country to seek protection, and are detained in separate cells, which usually means in isolation. Unaccompanied minors are detained sometimes together with persons charged with criminal offences. While there is a special wing for minors in these premises, in some of them (like the detention facilities in the Central Police Station in Paphos), unaccompanied minors are in contact with adults in custody for criminal offences during the time they spend in common spaces. Moreover, police officers are not trained on how to deal with minor detainees. All detainees, including unaccompanied minors, are treated like persons in custody for criminal offences.

According to the administration of the detention centre in Mennoyia, no unaccompanied minors have been detained in the centre and minors are detained in the detention facilities of Lakatamia police station. However, according to KISA's information, unaccompanied minors have been detained in the detention centre in Mennoyia. KISA was informed that on 27 September 2013, just before the visit of the CPT (European Committee for the Preventions of Torture and Inhuman or Degrading Treatment or Punishment), the administration of the centre took away five persons, detained illegally, including an unaccompanied minor, and kept them for several hours with handcuffs away from the Centre in order not to be seen and visited by the CPT. [25]

(b) Regarding the legal provision, as reported in the government's report, that "detainees must be detained in same sex cells," KISA notes that the police take into consideration the gender stated in the identity card of the concerned person. KISA's experience reveals that

[23] [KISA – Report – 24.03.2014. Detention Conditions and Juridical Overview on Detention and Deportation Mechanisms in Cyprus](#)

[24] [KISA – Press Release – 30.09.2013. The authorities of the Republic of Cyprus trying to deceive the Committee for the Prevention of Torture](#)

[25] [KISA – Press Release – 30.09.2013. The authorities of the Republic of Cyprus trying to deceive the Committee for the Prevention of Torture](#)

as a rule, persons in custody or detention are not asked to identify their gender before such a decision is made. Such a practice has particularly adverse consequences for trans persons, who do not identify with the gender stated in their identity card. KISA has dealt with cases of trans women detained in detention facilities for men, based on the gender stated on their identity card and despite their apparent feminine gender expression. In all cases, trans women, like unaccompanied minors, are detained in isolation and without any time or with very restricted time in the yard.

KISA notes here two cases of trans women, detained in the detention facilities of Lakatamia police station in 2013:

One of them, S., was detained in the wing customarily used for unaccompanied minors and in isolation and was only allowed to ten minutes in the yard daily, “so as not to provoke other detainees, ... who are men and have not had sex for a while,” according to the police officer in charge of the police station.

The other one, V.K. (further information can be found in comments to paragraph 23 above) was also detained in isolation, in a wing that was not operating at the time, with non-functional sanitary facilities, which were inside her cell, and without being allowed to any time in the yard and no communication rights. V.K. also reported to KISA that she was beaten up by the police, who arrested her and shouted transphobic and homophobic insults at her. KISA has submitted a complaint to the Ombudswoman on this case.

Comments to Paragraph 26:

Despite legal provisions, as per the State Party report, unaccompanied minors and families with children under 18 years are detained not as a measure of last resort, but routinely as an automatic measure when they are found to have entered or resided in the country without papers, or if attempting to travel abroad in order to seek asylum in another country using false travel documents according to which they are adults.

Families with children younger than 16 years old are usually not detained, but mainly because the special facilities for families designed to be built in Mennoya detention centre are not operational yet. Usually, one member of the family (customarily the man) is detained, in order to put pressure on the family to leave the country. However, this has recently been replaced by a much harsher policy, whereby families have been separated from their children, through detention of both parents, leaving the children under the care of welfare services or, in cases of single parent families, the parent is detained and the children remain either alone under the care of welfare services, who place children in foster families, or the children are left totally alone. Also, there have been cases that very young babies were detained in completely unsuitable detention facilities together with their

mothers, as a means to pressurise the parents to consent to their “voluntary” repatriation. [26] It is worth mentioning here the case of a Singh family from Afghanistan. The family as

[26] [KISA – Report – 31.10.2007. The Uprising of Block 10 Detainees in Cyprus: Chronology of Events, Conclusions and Future Action](#)

[KISA – Press Release - 31.01.2008. Protest for the release of 7 detainees in long term detention without a trial \(Διαμαρτυρία για την απελευθέρωση 7 κρατουμένων για μεγάλο διάστημα και χωρίς δίκη – In Greek\)](#)

[KISA – Press Release – 21.12.2011. Cyprus continues illegal detentions in contempt of national and international court decisions](#)

[KISA – Press Release – 05.12.2012. Police violence against a migrant woman and her baby of only 20 months old \(Αστυνομική βία κατά μετανάστριας και του μόλις είκοσι μηνών βρέφους της – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 30.07.2013. Report on the detention of a citizen of Sri-Lanka, with a long-term residence in the country, as well as his wife and child \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την κράτηση υπηκόου Σρι-Λάνκα, με μακρόχρονη παραμονή στη χώρα, μητέρας ενός παιδιού – In Greek\)](#)

[KISA – Press Release – 08.08.2013. A new incident of contempt towards judicial proceedings: Illegal detention and efforts for expulsion of an immigrant after 22 years of residence in Cyprus and after he had been naturalized as a Cypriot citizen](#)

[KISA – Press Release – 14.08.2013. KISA condemns another incident of discriminatory treatment regarding granting Cypriot citizenship to a family from Sri Lanka](#)

[KISA – Press Release – 30.09.2013. The authorities of the Republic of Cyprus trying to deceive the Committee for the Prevention of Torture](#)

[KISA – Video – 07.10.2013. Mohammed & Dimitrina: Facing Institutional Discrimination and Racism](#)

[KISA – Press Release – 18.10.2013. KISA reports another arrest of a migrant under the pretext of a marriage of convenience and denounces his subjection to torture at the Detention Centre in Mennogeia](#)

[KISA – Press Release – 19.11.2013. Inhuman treatment of a family of Afghan refugees](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 02.12.2013. Report on the detention with the aim of deportation of a European citizen, mother of a baby \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την κράτηση για το σκοπό της απέλασης Ευρωπαϊκής υπηκόου, μητέρας ενός ανήλικου παιδιού – In Greek\)](#)

[KISA – Press Release – 03.12.2013. A 13 months old baby detained for crying continuously and asking for its mother!](#)

[KISA – Press Release – 13.01.2014. A European national is now on a hunger strike outside the detention facility of Mennogeia, protesting against the arrest and detainment of her husband that is to lead to his deportation – yet another “virtual” hunger strike in the eyes of the competent authorities?](#)

[KISA – Press Release – 05.02.2014. The good, the bad and the ugly: Arrest of Syrian refugees, a staged “coordinated operation” by the police and fuelling the racist propaganda of extreme right](#)

[KISA – Press Release – 12.02.2014. KISA reports inhumane arbitrary treatment of the family of a European citizen and an abuse of power by the Director of the Civil Registry and Migration Department](#)

[KISA – Press Release – 21.02.2014. New incident involving abuse of power and violation of the rights of the family of a European citizen by the Civil Registry and Migration Department](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 07.03.2014. Report on the detention with the aim of deportation of the mother of a baby and witness to a criminal case against police officers \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την κράτηση με σκοπό απέλασης μίας μητέρας νηπίου και μάρτυρα κατηγορίας σε ποινική υπόθεση κατά αστυνομικών – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 12.03.2014. Position paper by the Commissioner for Administration \(Ombudswoman\) as the National Independent Authority on Human Rights on the treatment of mothers and young babies with a migrant background with the aim of deportation \(Τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την μεταχείριση μητέρων και ανήλικων παιδιών μεταναστευτικής προέλευσης για σκοπούς απέλασης – In Greek\)](#)

[Amnesty International – Press Release – 18.03.2014. Cyprus: Abusive detention of migrants and asylum seekers flouts EU law](#)

[KISA – Press Release – 19.03.2014. The Minister of Interior did not see or hear or understand and... doesn't recognise the obvious!](#)

caught at the airport when they were trying with forged travel documents to reach the UK where other family members were already recognised as refugees. The man was detained for about one year and the woman lived in the Reception Centre for Asylum Seekers in Kofinou with their three underage children. After the rejection of their asylum application at administrative level, the immigration authorities arrested the woman inside the Reception Centre for Asylum Seekers in Kofinou despite the fact that the family had the right to appeal to the court against the asylum rejection. The children were taken by the Social Welfare Services, which placed two of them in their shelter for children and gave the infant to a foster family. The infant, who cried constantly for three days, was taken first to the hospital and then to the detention facilities with the mother, where he was detained for some days under conditions of extreme humidity and without access to the sun or air and while ill with fever. [27]

In addition, while the principle of the best interest of the child must be a primary consideration in the context of the detention of minors pending removal, in Cyprus this does not seem to apply. Unaccompanied minors, who are not believed by the state to be underage, even when they prove it with their birth certificates, face deportation.

Comments to Paragraph 27:

The law provides that children in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age and shall have, depending on the length of their stay, access to education. Unaccompanied minors shall either be placed under foster care, or be accommodated in institutions with personnel and facilities that take into account the needs of persons of their age. However, as mentioned above, they are very often detained instead of accessing such institutions. Moreover, according to KISA's experience, migrant children in detention do not have access to any

[Representation of the United Nations High Commission on Refugees \(UNHCR\) in Cyprus – Comments on new report on Cyprus by Amnesty International](#)

[KISA – Report – 24.03.2014. Detention Conditions and Juridical Overview on Detention and Deportation Mechanisms in Cyprus](#)

[KISA – Press Release – 10.04.2014. The Minister of Interior believes everyone is conspiring against him, instead of trying to deal with deficiencies in the area of human rights](#)

[Commissioner of Human Rights of the Council of Europe – 07.04.2014. Statement by the Commissioner of Human Rights of the Council of Europe on the detention and separation of migrant women from their children](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) & Commissioner for the Protection of Child's Rights – 08.04.2014. Joint press release on the detention of mothers and / or single parents of babies \(Κοινό Ανακοινωθέν Τύπου Επιτρόπου Διοικήσεως και Ανθρωπίνων Δικαιωμάτων και Επιτρόπου Προστασίας των Δικαιωμάτων του Παιδιού σχετικά με την κράτηση μητέρων και / ή μονογονιών ανήλικων παιδιών – In Greek\)](#)

[27] [KISA – Press Release – 19.11.2013. Inhuman treatment of a family of Afghan refugees](#)

[KISA – Press Release – 03.12.2013. A 13 months old baby detained for crying continuously and asking for its mother!](#)

leisure, or recreational activities, or to education.

Comments to Paragraph 32:

Although domestic violence is criminalised, Cyprus has still a long way to go as far as protection of persons experiencing domestic violence concerns and especially migrant women:

1) Domestic workers are not protected at all and are not even treated as victims of domestic violence when they report violence by their employer(s) and/or other member(s) of the family in which they work (for more details, see comment 34).

2) Migrant women, who are members of the family of a Cypriot/European citizen, find themselves in a very vulnerable position when they experience domestic violence, as reporting it may entail losing their legal resident status and/or having to deal with the lack of any means of survival. [²⁸]

In Cyprus, migrants, who are members of the family of a Cypriot/European citizen, are granted a temporary residence permit, which is issued either for work purposes, or with a “visitor” status. The visitor status is not a specialised resident permit for members of family of a citizen. According to the Law, this status basically offers a resident permit without any access to social, economic, or political rights. In order to have the work permit, they have to fulfil several discriminatory criteria and practises. They must for example submit to the immigration police an employment contract in order to be granted a resident permit and

[²⁸] [KISA – Report – 30.09.2009. The Position of Migrant Women in Cyprus](#)
[KISA – Press Release – 16.12.2011. End the “legitimation” of violence against migrant women](#)
[KISA – Report – 25.06.2012. Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\) Shadow Report 2012](#)
[KISA – Press Release – 08.03.2013. End discrimination and violence against migrant domestic workers!](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 27.08.2013. Report on a case of concealing a pregnancy which was handled and investigated by the Cyprus Police \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τον χειρισμό και τη διερεύνηση από την Αστυνομία υπόθεσης απόκρυψης τοκετού – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 07.01.2014. Report on the arrest and deportation of a domestic migrant worker due to illness \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τη σύλληψη και απέλαση οικιακής εργαζόμενης λόγω ασθένειας – In Greek\)](#)

[KISA – Press Release – 15.01.2014. Abuse of power by a Senior Lawyer of the Law Office of the Cyprus Republic and the Director of the Civil Registry and Migration Department over the illegal deportation of a migrant domestic worker](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 02.07.2013. Position Paper by the Commissioner for Administration \(Ombudswoman\) as the National Independent Authority on Human Rights on the status of domestic workers in Cyprus \(Τοποθέτηση Επιτρόπου Διοικήσεως ως Εθνικής Ανεξάρτητης Αρχής Ανθρωπίνων Δικαιωμάτων αναφορικά με το καθεστώς των οικιακών εργαζομένων στην Κύπρο – In Greek\)](#)

they have to repeat this exercise each time they change employer and/or they need to renew their residence permit and/or employment contract. As many of such women have young children and also because of the current economic crisis, it is very difficult for them to find a permanent job and have an employment contract and, therefore, most of them apply for a resident permit as a “visitor” without employment. Such a resident status does not foresee for any rights other than residency right and is precarious. [²⁹]

Migrants, who apply for a resident permit as a spouse of a Cypriot/an EU citizen, have to have the consent of the latter, in order to get their residence permit. As a result, they are fully dependable upon their spouses and this is especially problematic when the latter is an abusive spouse.

Although Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States provides that in case of domestic violence, the victim should have the right to a residence permit independently of their abusive spouse and irrespective of the time of the relationship, the Republic of Cyprus does not implement this. As a result, migrants, and especially migrant women, who experience domestic violence, either do not report it, because they are afraid they will lose their resident permit, or, if they leave such an abusive relationship, they become undocumented migrants.

Migrant women, who report domestic violence against them, find themselves in a very vulnerable and precarious position. As mentioned above, in case they have a residence permit as the spouse of a Cypriot/EU citizen, they become undocumented as soon as their

[²⁹] [KISA – Press Release – 07.03.2008. Migrant mothers and wives of Cypriot citizens and with a status of long term “visitors” status \(Μετανάστριες μητέρες και σύζυγοι κυπρίων πολιτών με καθεστώς μακρόχρονα διαμένοντων «επισκεπτών» – In Greek\)](#)

[KISA – Report – 30.09.2009. The Position of Migrant Women in Cyprus](#)
[Commissioner for Administration and Human Rights \(Ombudswoman\) – 07.01.2014. Report on the arrest and deportation of a domestic migrant worker due to illness \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τη σύλληψη και απέλαση οικιακής εργαζόμενης λόγω ασθένειας – In Greek\)](#)

[KISA – Press Release – 15.01.2014. Abuse of power by a Senior Lawyer of the Law Office of the Cyprus Republic and the Director of the Civil Registry and Migration Department over the illegal deportation of a migrant domestic worker](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 02.07.2013. Position Paper by the Commissioner for Administration \(Ombudswoman\) as the National Independent Authority on Human Rights on the status of domestic workers in Cyprus \(Τοποθέτηση Επιτρόπου Διοικήσεως ως Εθνικής Ανεξάρτητης Αρχής Ανθρωπίνων Δικαιωμάτων αναφορικά με το καθεστώς των οικιακών εργαζομένων στην Κύπρο – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 07.11.2013. Mid-report on the investigation of an application of a migrant couple for changing their employer \(Ενδιάμεση Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με το χειρισμό αιτήματος ζεύγους μεταναστών για αλλαγή εργοδότη – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 20.02.2014. Report on the examination of an application of a migrant couple for changing their employer \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με το χειρισμό αιτήματος ζεύγους μεταναστών για αλλαγή εργοδότη – In Greek\)](#)

husband reports that they do not live together anymore. In case they have underage child(ren), they can apply for a residence permit as a member of the family of an EU / Cypriot citizen, based on the fact that their child(ren) is a Cypriot/an EU citizen. Again, this is issued either for work purposes, or with a “visitor” status. In most of the cases, women, who manage to escape an abusive relationship, have young children and therefore, it is very difficult to them to (re)enter the labour market, as they are the single providers of care to their children. In order to apply for a residence permit as “visitor,” members of the family of a Cypriot/European citizen must prove they have adequate means of subsistence or a sponsor, deposit a bank guarantee, and prepare a private health insurance. Due to these conditions, many of them do not manage to apply, or to get their residence permit, as they cannot fulfil the requirements. As a result, many of them are forced to become undocumented migrants without any rights and at risk of arrest, detention, and even deportation.

Moreover, most of the women who report domestic violence find themselves without any financial resources, as: a) accessing the labour market is extremely difficult due to the reasons stated above, b) in most of the cases, they do not receive alimony by the father of the child(ren), and c) as migrant women, they are excluded from any scheme of social support. They do not have access to the welfare benefit (except for a small amount concerning the welfare benefit of the child(ren)), or to child benefit, or to the benefit for single-parent families. Furthermore, they do not have access to health care either.

As a result of the failure of the Republic of Cyprus to protect them and because of their exclusion from any social rights, migrant women who experience domestic violence often return to abusive relationships/marriages, having no other alternative.

Comment to Paragraph 34:

Domestic workers, the overwhelming majority of whom are migrant women, reside with their employers and are thus considered to be ‘members’ of the family, under the Domestic Violence law.

In practice, however, when domestic workers report violence against them by their employers/other persons residing with them and/or relatives and friends who are frequent visitors, the police and the prosecuting authorities in general do not investigate complaints under the Domestic Violence law, which provides for much more effective protection of victims and stricter punishment for perpetrators, but under the General Penal Code. They do however investigate complaints under Domestic Violence legislation if a domestic worker is accused of violence by an employer or other persons residing with them.

Comment to Paragraph 35:

As amply documented in many reports of national, European and international bodies and organisations, migrant domestic workers are a group most vulnerable and subjected to domestic violence, both physical and psychological violence, and including sexual harassment and rape. A form of psychological violence against migrant domestic workers is the intimidation they are subjected to by employers, withholding of their salaries, passports and other personal documents, loss of their legal status and, ultimately, deportation. [³⁰] KISA has received many reports of repeated sexual violence instances against migrant domestic workers, including rape, by different male members of the same family, forced provision of sexual services to the male members of the family in return for the domestic worker's salary.

This violence is not readily reported to the police for obvious reasons. A domestic worker who falls victim to sexual violence by her employer and is finally forced to abandon her place of work loses her legal migration status and is, therefore, subject to arrest and deportation if she does not file a complaint to the authorities within 15 days.

Comment to Paragraph 37-39:

As in almost all statistical data, migrants are invisible in this area, too. Thus, statistics for

[³⁰] [KISA – Report – 30.09.2009. The Position of Migrant Women in Cyprus](#)
[KISA – Report – 25.06.2012. Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\) Shadow Report 2012](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 27.08.2013. Report on a case of concealing a pregnancy which was handled and investigated by the Cyprus Police \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τον χειρισμό και τη διερεύνηση από την Αστυνομία υπόθεσης απόκρυψης τοκετού – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 07.01.2014. Report on the arrest and deportation of a domestic migrant worker due to illness \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τη σύλληψη και απέλαση οικιακής εργαζόμενης λόγω ασθένειας – In Greek\)](#)

[KISA – Press Release – 15.01.2014. Abuse of power by a Senior Lawyer of the Law Office of the Cyprus Republic and the Director of the Civil Registry and Migration Department over the illegal deportation of a migrant domestic worker](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 02.07.2013. Position Paper by the Commissioner for Administration \(Ombudswoman\) as the National Independent Authority on Human Rights on the status of domestic workers in Cyprus \(Τοποθέτηση Επιτρόπου Διοικήσεως ως Εθνικής Ανεξάρτητης Αρχής Ανθρωπίνων Δικαιωμάτων αναφορικά με το καθεστώς των οικιακών εργαζομένων στην Κύπρο – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 07.11.2013. Mid-report on the investigation of an application of a migrant couple for changing their employer \(Ενδιάμεση Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με το χειρισμό αιτήματος ζεύγους μεταναστών για αλλαγή εργοδότη – In Greek\)](#)

[Commissioner for Administration and Human Rights \(Ombudswoman\) – 20.02.2014. Report on the examination of an application of a migrant couple for changing their employer \(Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με το χειρισμό αιτήματος ζεύγους μεταναστών για αλλαγή εργοδότη – In Greek\)](#)

domestic violence do not refer to the migration status of persons experiencing domestic violence, although this is an important element in recording and combating domestic violence. The same applies to gender identity, trans status or sexual orientation.

In addition, statistics do not reflect the real dimensions of the phenomenon, as: 1) women in general and especially migrant women are discouraged from reporting domestic violence against them. KISA has received many complaints by migrant women, who reported that police did not agree to take their statement, and/or threatened them with deportation if they insisted on reporting incidents of domestic violence, telling them that “their residence permit depends fully on their husbands.” 2) Undocumented migrant women are not protected from arrest, detention and deportation when reporting incidents of violence against them. Therefore, most undocumented migrant women who experience domestic violence are afraid and do not report it. 3) As mentioned in comment 34 above, when domestic workers report violence against them by their employers/other persons residing with them, their complaints are not treated as incidents of domestic violence.

Comment to Paragraph 42:

Although NGOs operating programmes specifically for the prevention and combating of domestic violence are included in this cooperation, it is regrettable that NGOs such as KISA engaged in the areas of migration and asylum and, therefore, with expertise regarding migrants, are not included. Such NGOs could contribute with their expertise on the specific needs of migrants and women in particular, who experience domestic violence, including sexual harassment and rape.

Comment to Paragraph 44:

As KISA has been repeatedly informed, the government does not include in its financial support to the Association for the Prevention and Handling of Violence in the Family undocumented migrants and especially undocumented migrant women in their services. As a result, undocumented migrant women, who are particularly vulnerable to domestic violence, are excluded from support and protection and do not have any means of escape. The same goes for the Social Welfare Services, which do not provide any support to undocumented women experiencing domestic violence.

Comment to Paragraph 45:

As it can be easily deduced from the above and despite the vulnerability of migrant women to domestic violence, they are excluded entirely from all support measures and

mechanisms. Thus, both the National Action Plan for the Prevention and Combating of Violence in the Family for 2008-2013, referred to in the Government's report, and the new Plan for 2010-2015 totally exclude migrant women and particularly domestic workers altogether from the support and protection measures for victims of domestic violence.

Comment to Paragraph 46:

The fact that migrant domestic workers who are subjected to domestic violence can submit complaints to the Ombudswoman for sexual harassment under the Equal Treatment in Employment and Vocational Training Law, as mentioned in the government's report, does not in any way fill the gap created as a result of their exclusion from the Domestic Violence law and the National Action Plans, especially in relation to protection and support to the victims, for two main reasons: First, the Ombudswoman can only investigate cases where government and other public services and bodies are involved, and not against entities or individuals in the private sector. Secondly, the Ombudswoman's findings and recommendations are not binding, while in their overwhelming majority competent public services and agencies routinely ignore these findings and recommendations and are not accountable for doing so.

A case in point^[31] is one reported to the Ombudswoman by KISA concerning a migrant domestic worker from the Philippines, Ms E.F., who was repeatedly sexually harassed by her employer. The Ombudswoman found that the failure of the Labour Department of the Ministry of Labour and Social Insurance to investigate the complaint, as it was obliged to do under the above mentioned Equal Treatment Law, the failure of the police to investigate the complaint for sexual harassment under the same law but under the Penal Code Law, the decision of the Attorney General that the case could not be corroborated in court, and the resulting confusion led to the victimisation, once again, of the migrant woman, who had her residence and work permit revoked and was arrested for deportation.

Comment to Paragraph 47:

The Prevention and Combating of Trafficking and Exploitation of Human Beings and Protection of Victims of Trafficking Law (Law L. 60(I)/2014) was enacted on 9/4/2014^[32]. The

^[31] Report of the Equality Body, under the Office of the Ombudswoman, *Investigation of a report for sexual harassment of a migrant domestic workers*, No. AKI 67/2010, 19/4/2011
[http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/EB538C793DBB3D60C22578A0001DA9C1/\\$file/AKI%2067.2010-19042011.doc?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/EB538C793DBB3D60C22578A0001DA9C1/$file/AKI%2067.2010-19042011.doc?OpenElement)

^[32] http://kisa.org.cy/wp-content/uploads/2014/04/Trafficking_Law_2014.pdf

new law purports to harmonise the national legal framework with EU legislation and international legal instruments for combating trafficking in human beings. (Framework Decision of 15 March 2001 on the rights of victims in criminal proceedings - 2001/220/JHA, Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, UN Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the Council of Europe Convention on Action against Trafficking in Human Beings). [33]

The bill was first drafted by the working group on legislation of the Multidisciplinary Coordinating Group on Trafficking, in which KISA played a key role with its legal expert. Following the first draft, the bill was substantially changed by the Ministry of Interior and the Attorney General's Office, which introduced or changed provisions that violated Directive 2011/36/EU as regards in particular the protection of victims of trafficking from deportation. At the stage of its discussion at the Human Rights Committee of the House of Representatives, even though the participation of NGOs and other stakeholders was very cursory because the whole issue was treated as a matter of urgency in view of infringement procedures initiated by the European Commission for late transposition, they nevertheless were given the opportunity to submit their positions in writing. [34]

[33] [Government Gazette of the Republic of Cyprus – 09.03.2012 – “Law Amendment on the Prevention of Trafficking in and Exploitation of Human Beings and the Prevention of Victims of 2012” \(Επίσημη Εφημερίδα της Κυπριακής Δημοκρατίας – Ο περί της Καταπολέμησης της Εμπορίας και της Εκμετάλλευσης Προσώπων και της Προστασίας Θυμάτων \(Τροποποιητικός\) Νόμος του 2012\)](#)

[Government Gazette of the Republic of Cyprus – 01.04.2014 – L. 60\(I\)/2014 on the Prevention and Combating of Trafficking in and Exploitation of Human Beings and the Protection of Victims of 2014 \[N.60\(I\)/2014 – Ο περί της Πρόληψης και της Καταπολέμησης της Εμπορίας και της Εκμετάλλευσης Προσώπων και της Προστασίας των Θυμάτων Νόμος του 2014 – In Greek\]](#)

[34] [Commissioner for Administration and Human Rights \(Ombudswoman\) – 17.10.2013. Position paper by the Commissioner for Administration \(Ombudswoman\) as the National Independent Authority on Human Rights on the framework of prevention and combating trafficking in human beings in Cyprus \(Τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με το πλαίσιο πρόληψης και καταπολέμησης της εμπορίας προσώπων στην Κύπρο – In Greek\)](#)

[Commissioner for the Protection of Child's Rights – 03.02.2014. Position paper on the harmonization of the Directive 2011/93/EU on combating sexual abuse and sexual exploitation of children and child pornography \(Υπόμνημα Θέσεων της Επιτρόπου Προστασίας των Δικαιωμάτων του Παιδιού αναφορικά με την ενσωμάτωση της Οδηγίας 2011/93/ΕΕ σχετικά με την καταπολέμηση της σεξουαλικής κακοποίησης και της σεξουαλικής εκμετάλλευσης παιδιών και της παιδικής πορνογραφίας – In Greek\)](#)

[Commissioner for the Protection of Child's Rights – 26.03.2014. Position paper on the “Law on the Prevention of Trafficking in and Exploitation of Human Beings and the Protection of Victims of 2014” \(Υπόμνημα Θέσεων της Επιτρόπου Προστασίας των Δικαιωμάτων του Παιδιού, Λήδας Κουρσουμπά, αναφορικά με τον «περί της Πρόληψης της Εμπορίας και Εκμετάλλευσης Προσώπων και της Προστασίας των Θυμάτων Νόμο του 2014» - In Greek\)](#)

This procedure resulted in removing and/or amending some of the problematic provisions but a number of serious problems still remain, the main of which are listed below.

(a) The way the crimes are provided in the law do not offer legal certainty and clarity as to the actions criminalised and will, once again, lead to the impunity of traffickers, because the law is not clear. (Section II – Criminal Offences and Court Jurisdiction, Articles 6-28) It is noted that up to now, as far as KISA is aware, there were no convictions under the anti-trafficking legislation per se.

(b) The law excludes victims from access to free legal advice outside the criminal procedures, a provision that clearly violates Directive 2011/36/EU. In addition, NGOs are excluded from the provision of legal advice to victims in the framework of free legal aid, because the law provides for the provision of these services only by practising lawyers, who in Cyprus can only be employed in law offices or operate their own office. (Section III – Rights and Protection of Victims in criminal procedures – The right of Victims to compensation, Article 33 (2) and (4), Article 36.)

(c) The law does not provide for the right to effective remedy of persons referred to the police as potential victims of trafficking and not finally recognised as victims by the Office of the Police of Combating Trafficking in Human Beings. This is contrary to Article 47 of the Charter of Fundamental Rights of the EU, which provides for access to an effective remedy. (Section IV – Recognition, Assistance and Support to Victims – Part 1 – General Provisions, Article 45)

(d) In violation of Directive 2011/36/EU, the law provides that victims of trafficking are recognised by the Office of the Police of Combating Trafficking in Human Beings on the basis of internal rules of the police, especially as ‘internal’ they are neither checked nor publicised. Victims of trafficking should be recognised when their situation falls within the definition of trafficking. (Section IV – Recognition, Assistance and Support to Victims – Part 1 – General Provisions, Article 46 (5))

Media reports and information reaching NGOs and other stakeholders about the corruption of public officials and police officers, including high-ranking ones, and participation, implication and/ or profiting, directly or indirectly, from trafficking networks, as per Article 15 of L.87/(I)/2007, are not, at least as far we know, seriously investigated. A case in point^[35] is that of a senior police officer (Deputy Chief of the Aliens and Immigration Office of the Police), who was arrested in March 2011 for trafficking in migrant women, including a 15-year old girl. Even though he was one of the prime suspects in the case and was

^[35] Politis newspaper, 17/3/2011, “Detained three of the suspects”, <http://www.politis-news.com/cgi-bin/hweb?-A=205784&-V=articles>
Sigma live-TV channel, 25/3/2011, <http://www.sigmalive.com/simerini /news/local/367282>

suspended by the Police, he was finally acquitted because of lack of credible witnesses. In their reports, most of the media either ignored or failed to refer to the collaboration of the Deputy Chief of the Aliens and Immigration Police with the Director of the Civil Registry and Migration Department of the Ministry of Interior, who is responsible for issuing residence permits. It is therefore questionable if the authorities have ever bothered to investigate corruption not only in the Police but also in the Civil Registry and Migration Department.

Comment to Paragraph 48:

The legal framework for the protection and support of victims is largely adequate, as per the state party's report. However, as documented^[36] in research and other reports of international, European and local agencies and organisations and evidenced by many cases reported to KISA and other NGOs, the situation on the ground differs substantially from the legal provisions. Notwithstanding the progress achieved in the period under review, it is a fact that support and protection of trafficking victims remain one of the biggest challenges facing the effort to combat THB in Cyprus, as evidenced for example in a number of reports of the Ombudswoman's Office as National Human Rights Institution and experienced by NGOs.

As detailed below, some of the most fundamental rights of trafficking victims not only are they not respected but they are actually violated by the policies and practices of the administration, while this has become worse in the last year or so under the pretext of the economic crisis and the bailout austerity measures.

The magnitude of the problem is well illustrated by the *Rantsev v. Cyprus and Russia* case^[37], of 7 January 2010, in the landmark ruling of the European Court of Human Rights, about Oxana Rantseva, a young Russian woman who fell to her death in her attempt to escape her traffickers on 29 March 2001. With this ruling, Cyprus was convicted for its "failure to provide for an appropriate legal and administrative framework to combat trafficking and to properly investigate how and where the victim was recruited". Even though the legal framework and policies in relation to the tourist visas have been changed since the death of

^[36]See for example:

US Department of State, *Trafficking in persons Reports*, (Cyprus first featured in the TIP Reports in 2004; since then, it oscillates between Tier 2 and Tier 2 Watch List);

<http://www.state.gov/j/tip/rls/tiprpt/>;

ENAR *Shadow Reports – Racism in Cyprus*, annual reports prepared by KISA or with the support of KISA, for the years 2005–2012, <http://www.enar-eu.org/Shadow-Reports-on-racism-in-Europe-203>;

GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in Cyprus*, First evaluation round,

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2011_8_FGR_CYP_en_final.pdf

^[37] <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-96549>

Oxana Rantseva, trafficking in general and for sexual and labour exploitation in particular, continues to be a serious problem in Cyprus.

The failure of the state to uphold, support and protect the rights of trafficking victims and, worse still, to actually violate them is a direct consequence of the migration model, policies and practices in place in Cyprus. In spite of scattered and itemised corrective policies and measures since it was first introduced, the basic tenets of this migration model still obtain today. It was instituted at the beginning of the 1990s, in agreement with the social partners (trade unions and employer organisations), in order to meet acute labour shortages in low-skilled or unskilled jobs and in sectors such as agriculture, services, cleaning and catering services, the construction and hotel industries, jobs that Cypriots would not take up. On the basis of a very stringent approach, the migration model provides for temporary stay and employment permits normally renewable for no more than a maximum period of 4^[38] years. With this permit, a migrant is attached to a specific employer and a specific job. Migrants can change employer only if they are given the so called “release paper” by their employer and only after the first 6 months of employment or if they can prove to the competent authority that their rights are seriously violated. With a release paper, a migrant has one month within which to find a new employer, otherwise they become automatically irregular. In addition, the employer can at any moment and without any notice terminate the employment of the migrant employee who, in that event, will automatically lose their resident permit as well and therefore be subject to arrest, detention and deportation. This absolute dependence and bondage to the employer make migrants very vulnerable to extreme exploitation and trafficking.

In its decision on the Rantseva case, the ECHR “expresses the need for an urgent re-examination of the trafficking policy, but also of the national immigration policy and practices in general”. In its decision, the Court found that many of the procedural requirements in force in Cyprus set the immigrant worker under the control of the employer, thus creating a breeding ground for trafficking and slavery^[39]. However, since the decision of the Court, there has been no re-evaluation of the migration policies of the state. On the contrary, migration policies, under the pretext of the economic crisis and under the weight of extreme nationalism and populism using the anti-immigrant and xenophobic narrative, have become more stringent in the last few years.

^[38] This replaced the 6-yr permit with the expressed aim to prevent migrants from qualifying for long-term residence as provided for under Directive 2003/109/EC. Exempted from the provision of this regulation are migrant domestic workers working for elderly, seriously ill or disabled people or people with special needs, families with young children, both parents of whom work, and people with large incomes.

^[39] Nicoletta Charalambidou, KISA legal advisor, quoted in Anna Hassapi, *The Decision of European Court of Human Rights in the case of Rantsev v. Cyprus and Russia*, Cyprus Mail, 9 January 2010 <http://cyprus-mail.com/>

Persons recognised as victims of trafficking are obliged to stay in Cyprus, as they are the main witnesses of the police in the court case filed against their trafficker. According to the law, as victims of trafficking, they have access to employment, welfare benefits and to full medical care, while they should also be granted a residence permit (and renewals) without charge. In reality, however, they find themselves in poor living conditions, without real access or adequate access to any of the above rights. Using the economic crisis as an excuse, the Labour Department claims it cannot help victims of trafficking to find employment, especially in sectors other than farming, agriculture and domestic work (all of them sectors where persons recognised as victims of trafficking have experienced trafficking). They, therefore, have to depend on welfare benefit. The Social Welfare Services, however, fail to fulfil their responsibilities, as they usually delay welfare benefits to trafficking victims for long periods. KISA is currently dealing with a case of a group of 13 persons from India, recognised as victims of trafficking after KISA's intervention with the Police Office of Combating Trafficking in Human Beings. Although the Labour Department failed to help them in finding employment, they have not received their welfare benefits for months (some of them for 10 months) and they are faced with eviction. Most of them live in a building that the SWS found for them, as the shelter for victims of trafficking is reserved only for women victims of trafficking for sexual exploitation. This place is a private building and the victims have to pay rent, while their only resource is the welfare benefit. Due to the fact that their welfare benefits have been delayed for such a long time, they have not been able to pay rent for several months and the owner of the building tried to evict them on at least two occasions. It was only with the mediation of KISA that their eviction was not realised.

Access to medical care is also problematic for persons recognised as victims of trafficking. They are often not informed of their right to apply for a medical card and KISA has also dealt with cases that victims' access to medical care has been hindered by hospital staff. More specifically, we had two cases in 2013 when victims visited the hospital and tried to register for medical examination but the hospital staff refused to register them, telling them that "the hospital is full with migrants visiting doctors and getting medication for free at the expense of Cypriots". After the mediation of KISA, these victims accessed medical care, according to their rights. But the question still remains for victims that have possibly faced, or will face, the same problem, and did not/will not contact KISA, or any other NGO/other body to claim their rights. Moreover, KISA deals with cases when 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.

Moreover, the Civil Registry and Migration Department asks victims to pay a fee of 60 euro to apply for their residence permit, while they are denied reimbursement by the SWS although, according to the law, they should not be charged to begin with. Furthermore, KISA has dealt with cases that the CRMD did not issue residence permits for underage children

victims, and it is also typical that the issuance of residence permits is delayed for long periods of time.

In addition, victims are not informed of their right to compensation. Lack of information and the fact that they are deported immediately after the court proceedings mean that victims do not have access to their right to seek compensation.

Finally, the fact that the police are responsible for the identification of victims is also problematic. Persons who are victims of trafficking usually do not trust the police and this is not unjustifiable. In 2013, we had at least two cases of victims of trafficking being arrested in the shelter for victims and, while they were cooperating with the police for their cases, one of them was deported. Also in 2013, another person recognised as victim of trafficking was arrested, detained and deported by the Immigration police after the conviction of her traffickers. Victims are granted protection only if and for as long as the police need them for their criminal cases. After they testify in court, victims are asked to leave Cyprus and are not granted any kind of protection anymore, nor are they informed of their right to claim compensation either from their traffickers or the state.

Comment to Paragraph 49-51:

Please see comment 48 above.

Further, in the majority of cases, victims are allowed to work only in the same sector and if they refuse, even for health reasons, they are considered to be willingly unemployed and have, as a consequence, their welfare benefit discontinued.

Comment to Paragraph 52:

In March 2012, Law 13(I)/2012^[40] was enacted to increase the number of NGO members of the Multidisciplinary Coordinating Group from 2 to 4. In addition to the 2 NGOs mentioned in the Government's report, there are two other members of the MCGCTHB: KISA – Action for Equality, Support, Antiracism and Cyprus Stop Trafficking.

Despite repeated calls by KISA and other NGOs, the national referral mechanism, referred to in the Government's report, has not been activated as the competent authorities have so far failed to conclude the required memorandum of agreement with NGOs.

^[40] http://www.cylaw.org/nomoi/arith/2012_1_13.pdf

Comment to Paragraph 53:

Indicative of the situation in relation to the provision of support and protection to trafficking victims, especially for labour exploitation, is that there is only one shelter, which is intended only for female sexual trafficking victims.

Other problematic issues about the shelter include the following^[41]:

- The shelter is located in the premises of the Central Prison.
- The imposition of harsh and arbitrary rules and regulations not provided for by the law. Persons in the shelter who do not, in the opinion of the staff, follow these rules and regulations are subject to punishment, including expulsion from the shelter.
- No psychological support is provided at the shelter nor is the right to psychological support communicated to the women in the shelter.
- Women with children, even with young babies, are separated from their children as the shelter is deemed to be unsuitable for children.
- NGOs are not allowed to contact victims at the shelter, not even by telephone.

Comment to Paragraph 54:

Notwithstanding the commendable work of the Office for Combating Trafficking in Human Beings of the Police, the identification of victims by the police is, as mentioned above, highly problematic and entails almost automatically that the focus is mostly on the prosecution of perpetrators rather than on the protection of victims. It also causes reluctance and fear amongst victims to report cases of trafficking to the police. The latter especially in view of the corruption and implication of police officers (of other departments) in trafficking rings.

Comment to Paragraph 58:

The new policy referred to in the Government's report centred on the abolition of the "artiste" visa, which was granted almost exclusively to migrant women who worked in night clubs, cabarets and other sex trade establishments, and its replacement by visas for "creative" and "performing" group artists. This new policy, purported to enhance the efforts to combat trafficking in human beings for sexual exploitation, was commended by NGOs, including KISA, and other stakeholders as signifying the will of the state to seriously address the issue and tackle trafficking.

^[41] For a detailed account of the problems encountered in the operation of the shelter, please see Report no. A/Δ 4/2013, of 17/10/2013 (in Greek), by the Ombudsman, [http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/FFF812B3CA94EB0C2257C1500002013/\\$file/Τοποθέτηση%20Επιτρόπου%20για%20Εμπορία%20Προσώπων%202013.pdf?OpenElement](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/FFF812B3CA94EB0C2257C1500002013/$file/Τοποθέτηση%20Επιτρόπου%20για%20Εμπορία%20Προσώπων%202013.pdf?OpenElement)

However, the only visible change so far is that applications for these visas are now 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.

From media and other reports, it also appears that the place of work of women entering the country on these visas has just changed from nightclubs and cabarets to bars, private apartments and massage parlours.

Comment to Paragraph 68:

The new National Plan against THB for 2013-2015 was approved by the Council of Ministers in April 2013. Even though there are some improvements, the new NAPATHB does not include a specific timeframe for the implementation of the actions envisaged, as per the Government's claim. In addition, it does not provide for annual evaluations, which is contrary to GRETA's recommendations.

Comment to Paragraph 71:

It has to be noted that the absolute nature of Article 3 of the Convention is not reflected in the Refugee Law as, according to section 5 of the law, a person otherwise entitled to subsidiary protection on grounds also of an Article 3 violation, may be excluded from protection for the same reasons a refugee may be excluded from the refugee status. The report of the Government is not accurate and conceals the fact that the Refugee Law excludes from subsidiary protection persons on the same exclusion grounds as the 1951 Geneva Convention on Refugees. As a result, there is no absolute protection from torture as this is envisaged both in the CAT as well as in Article 3 of ECHR.

The refugee law provides for another status, the so called temporary residence permit on humanitarian grounds, when, amongst other reasons, a person cannot be deported in fact or in law, which could be used in cases where persons otherwise unworthy of the protection of the refugee or subsidiary protection on the basis of exclusion grounds, to provide them protection from torture. In a recent 2014 amendment of the Refugee Law this status is abolished. As a result, there is currently no protection for persons at risk of torture if returned, while they are otherwise excluded from the protection of the refugee or subsidiary protection status. Moreover, in the recent amendment of the Refugee Law, the subsidiary protection status is no longer granted on the grounds that a person may risk serious infringements of human rights in the country of origin at the level that the international obligations of the Republic are activated.

Comment to Paragraph 72:

According to KISA's experience, the risk of torture is never properly assessed in asylum cases. Cyprus follows a single procedure for the examination of asylum applications. An asylum application is therefore determined as regards both the refugee status and the subsidiary protection status in a single procedure.

Asylum procedures under the Refugee Law consist of two administrative levels. The Asylum Service of the Ministry of Interior examines on first instance at administrative level and the Refugee Reviewing Authority on second instance at administrative level. These two stages are considered as the first instance decision in accordance with Council Directive 2005/85/EC, during which deportation of an asylum seeker is prohibited under the law. The Refugee Reviewing Authority's decision is subject to recourse before the Supreme Court.

Asylum applications are submitted personally by the applicants at the Immigration Police and are subsequently forwarded to the Asylum Service for examination. At the time of submission of an application, a leaflet should be given to the applicants with the basic information regarding the asylum procedures. However, it is reported that many times this leaflet is not given. In addition, the leaflet has not been updated so as to include the correct information after the amendment of the Refugee Law in order to transpose Directive 2005/85/EC.

An interview is most of the times conducted at the level of the Asylum Service on the first administrative instance, unless the file is closed for procedural reasons. Interviews are particularly poor in the majority of the applications. Interpretation and translation services are offered by persons who are not professional interpreters/translators, nor are they trained to deal with asylum matters. There are long delays in the examination of the claims, particularly those who have merits, leading in cases that asylum seekers may be interviewed for their claim some years after the submission of their asylum application.

The Refugee Reviewing Authority has the power to review decisions of the Asylum Service on both facts and law, to overrule any of its decisions and decide whether to provide international protection or not. It has the power to examine new evidence submitted by the applicant, which however is evaluated by the Authority, to determine whether they constitute new evidence or not. Despite powers to conduct hearings or to call for expert witnesses or other witnesses and evidence, the Authority has never up to date exercised such powers. It acts merely as a second instance administrative body, reviewing decisions of the Asylum Service through a written procedure. In the majority of the cases, even when new evidence is submitted, the Authority does not conduct a second interview.

Provisions of the Refugee Law provide for the independence of the Refugee Reviewing Authority. However, it is important to note that the Chair and members of the Authority are appointed by the Council of Ministers after a relevant suggestion by the Minister of Interior,

who is also politically responsible for the Asylum Service. Also, the Chair and members of the Authority are appointed and dismissed by the same body, namely the Council of Ministers, in which the Minister of Interior also participates.

The personnel of the Refugee Reviewing Authority are recruited by the same department (Department of Public Administration and Human Resources of the Ministry of Finance) that recruits the personnel for all Ministries and governmental authorities.

Quite often, the same interpreters/translators are used by both the Asylum Service and the Refugee Reviewing Authority during interviews with asylum seekers or for the translation of documents.

The overall recognition (of the status of refugee and of subsidiary protection) rates on first and second administrative instance are very low, possibly the lowest in the European Union, after Greece, with a recognition rate of 2.9% of both forms of international protection in 2010.

Legal aid and legal advice is not provided at the administrative level. Free basic and very minimal legal advice and support is provided only by two NGOs (KISA and Future Worlds Centre). The above mentioned problems and weaknesses of asylum procedures in Cyprus and the administrative practice followed by the authorities are best described in reports of national NGOs that provide legal and social support to asylum seekers in Cyprus, as well as in reports by international NGOs, UNHCR-Cyprus, the Commissioner for Human Rights of the Council of Europe, and of the European Commission against Racism and Intolerance.

Claims by asylum seekers that they have been victims of torture in their country of origin or former habitual residence – in which case, according to the law, protection should be granted – are not properly evaluated by experts following the Istanbul Protocol. The medical council referred to by the government does not involve doctors trained to identify victims of torture and the doctors the council consists of cannot actually assess and evaluate such claims by asylum seekers. Reports by this medical council merely describe the bodily and mental situation of the person examined by the council's doctors, but they always conclude that "they cannot confirm that asylum seekers have been victims of torture." Evoking such conclusions, the Asylum Service and the Refugee Reviewing Authority reject the asylum applications of refugees claiming to have been victims of torture. Unfortunately, this method of assessment has been accepted by the Supreme Court as well. More details regarding the medical council can be found in our comment to Paragraph 77 below.

The vast majority of asylum applications are rejected on grounds of credibility. Credibility is usually assessed on the basis of the context of the situation in the country of origin and on the basis of minor inconsistencies over irrelevant or not important issues that do not form part of the core of the asylum claim. The quality of interviews is also very bad: they are

conducted with non-professional and non-specifically trained translators and do not take into account the needs of asylum seekers in terms of their linguistic, cultural, and other background, or in relation to their gender, gender identity, or any other characteristic.

Unaccompanied minors do not have a legal representative in the procedures and their applications in their vast majority are rejected when they turn 18 years old. Officers of the Social Welfare Services, which is supposed to act as the legal representative of unaccompanied minors in the asylum procedures, merely attend the interview and they are not specifically trained regarding the needs of unaccompanied minors in the asylum procedure. It should be noted that under the previous legislation, the legal representation of unaccompanied minors was assigned to the Commissioner for Children's Rights. Because the Commissioner insisted on interpreting such representation as legal representation, and therefore appointed lawyers to act on her behalf and the authorities did not accept that, the legislation has been amended to assign the representation of unaccompanied minors in the asylum procedures to the Social Welfare Services.

Moreover, even though the Aliens and Immigration Law specifically provides in deportation cases that the principle of non-refoulement is respected, the Director of the Civil Registry and Migration Department issues deportation orders against refugees whose asylum applications have been rejected, relying merely on the assessment by the Asylum Service and the Refugee Reviewing Authority regarding their asylum claims:

- Despite the fact that the cases may be still pending before the Supreme Court for judicial review, and
- Despite the fact that the assessment may have been conducted years before and circumstances may have changed in the meantime and/or the asylum seeker may have filed new evidence for a subsequent asylum application.

There have been cases when persons were deported pending the determination of their cases by the Supreme Court, or before the date of the deadline for submitting a recourse at the Supreme Court, against either the decision of the Refugee Reviewing Authority or the decision of the Immigration authorities concerning deportation.

No assessment is made by the Director of the Civil Registry and Migration Department as regards the probable risk of torture either at the time of the issuance of a deportation order or at the time of the execution of such an order.

In view of the above, KISA concludes that no proper assessment is made when it comes to the risk of torture in the determinations of asylum applications; not even in the case of asylum seekers being deported to their country of origin. Below are two cases that are indicative of this reality:

B.K. is a Syrian Kurd, who claimed asylum in Cyprus after he was tortured in a Syrian prison on

grounds of political activity. His asylum application was rejected and in 2010 he was deported to Syria, where he was detained, re-subjected to torture and released after almost three years of imprisonment. After his release, he sought asylum in Austria, where he is today a recognised refugee. KISA has assessments by experts that confirm that B.K. is a victim of torture and cooperates with lawyers and international organisations, such as Amnesty International in Austria, to pursue his case in courts for damages against Cyprus. [⁴²]

O.E. sought asylum in Cyprus after three prosecutions he had had for desertion of army duties in Turkey. The first two prosecutions had concluded in conviction to imprisonment. After his release from detention the third time, O.E. left Turkey and sought asylum in Cyprus, claiming he had been ill-treated in military detention during both periods of imprisonment. His asylum application was examined and rejected with the excuse that he had not proved his claims for ill-treatment and that conscientious objection to compulsory military service is not grounds for international protection. In July 2013, O.E. was deported to Turkey and arrested upon arrival in Istanbul. [⁴³]

Comment to Paragraph 73:

The European Court of Human Rights has already decided in the case of *M.A. v. Cyprus Application no. 41872/10, Judgment of 23/7/2013* that there is not an effective remedy in place to allow for appealing refoulement decisions as the recourse challenging decisions, either of the Refugee Reviewing Authority against negative decisions in asylum claims, or against deportation decisions before the Supreme Court, do not have an automatic suspensive effect. Despite the fact that the Government accepted the decision and did not appeal at the Grand Chamber, since then, no measures have been taken to amend the relevant legislation to provide for an automatic suspensive effect to the recourse. As a result, in order to be able to suspend deportation, on grounds of violation of the principle of non-refoulement, one has to file an interim measures application which may be only granted if the applicant proves blatant illegality or irreparable. The threshold of proving the above two requirements has been set very high by the Supreme Court and in their vast majority such applications are rejected. Moreover, the applicant is required to prove blatant illegality or irreparable damage in the context of challenging a deportation decision, whereas the case of her/his asylum is pending through a different recourse before the

[⁴²] [Amnesty International – Press Release – 29.09.2009. Urgent action required: Syrian Kurd disappears, risk of torture](#)

[⁴³] [KISA – Press Release – 12.07.2013. KISA condemns the Republic of Cyprus for refugees’ delivery in the military dungeons of Turkey and Syria](#)
[Amnesty International – Press Release – 18.07.2013. Urgent action – Conscientious Objector detained in Turkey](#)
[Amnesty International – Press Release – 18.07.2013. Turkey – Conscientious objector detained in Turkey](#)

Court. In some cases, where applicants tried to prove their irreversible damage because of the risk of persecution, the Court concluded that this is a matter concerning a different application and it would not examine it. Moreover, the Attorney General, despite the decision in the *M.A v. Cyprus*, continues to object in applications for an interim measure concerning asylum seekers. [44]

In addition, the scope of judicial review in recourses against administrative decisions on the basis of Article 146 of the Constitution is limited only to a legality review and does not examine the merits of the case and therefore cannot definitively determine whether someone should not be deported on grounds of risk of torture. The Supreme Court only examines whether the procedures were followed and whether the decision was flawed in fact or in law or whether it was taken against the general principle of administrative law, i.e. in good faith, etc. As a result, even if the Court decides to annul the decision on any of the above grounds, there is nothing stopping the Director of the Migration Department to re-examine and take the same decision again. There have been many cases where authorities issued new detention and deportation orders after a decision of the court.

In a series of decisions of the Supreme Court sitting in full bench in 2006, the Court found in a general manner procedures followed by the Refugee Reviewing Authority to be in accordance with the law. It then decided that as long as the Refugee Reviewing Authority follows the procedures provided for in the law and the Constitution, the Court would not intervene in evaluating the facts of the case. More specifically, the Court ruled that it would not go into the merits of the case to examine whether a decision was correct, but it would only review the legality of the decision and whether the Authority acted within the limits of the discretion provided for in the law.

Since then, it is very rarely that the Supreme Court annuls decisions of the Refugee Reviewing Authority and quite often it does not even examine whether a decision is flawed in fact or in law, the normal legality review, but only examines procedural requirements and whether decision was well justified.

A final decision under the Refugee Law is the decision of the Supreme Court on appeal from a first instance decision of the Supreme Court, unless a decision of the Refugee Reviewing Authority is not challenged before the Supreme Court. The average period needed for an asylum seeker to have a final decision on his/her claim may be calculated between seven to nine years from the submission of the application.

[44] [European Court of Human Rights \(ECHR\) – 230 \(2013\) Press Release – 23/07/2013. Lack of an effective remedy in relation to deportation and unlawful detention of Syrian national](#)
[European Court of Human Rights \(ECHR\) – Judgment – \(Application No. 41872/10\) M.A. v. Cyprus KISA – Press Release – 23.07.2013. Unanimous decision of the European Court of Human Rights condemns the Republic of Cyprus: Lack of an effective remedy in cases of deportation and detention of asylum seekers and unlawful detention aiming to deportation](#)

The relationship between the Aliens and Immigration Law and the Refugee Law regarding the legality of the Director of the Migration Department to issue detention and deportation orders against asylum seekers who have not yet received a final decision on their asylum claim has been interpreted by the Supreme Court sitting in full bench, allowing the issuance of detention and deportation orders against asylum seekers if the circumstances relating to the issuance of detention and deportation orders fall outside the scope of the Refugee Law.

The Refugee Law regulates all issues relating to asylum seekers as long as they have the status of an asylum seeker, that is, as long as a final decision regarding their asylum claim is pending. Despite the clear definition in the Refugee Law of the final decision, in accordance also with European union law, the administration considers as final decisions the decisions of the Refugee Reviewing Authority, irrespective of the fact that asylum seekers may subsequently challenge those decisions before the Supreme Court under the general right enshrined in Article 146 of the Constitution. The basis for such an interpretation is the fact that the Refugee Law provides for the right to remain in the Republic pending the determination of the application only for as long as procedures are pending before the Refugee Reviewing Authority. After rejection from that authority, asylum seekers are considered by the authorities as illegal immigrants rather than asylum seekers, as they do not have the right to stay according to Article 8 of the Refugee Law.

As a result, after rejection of an asylum application from the Refugee Reviewing Authority, the Director of the Migration Department orders applicants to leave Cyprus at once. If the applicants do not obey the order, detention and deportation measures may be issued against them so as to enforce the decision to leave the Republic.

Each one of the above mentioned decisions may be challenged before the Supreme Court of Cyprus as administrative acts, but only separately. According to settled case law of the Supreme Court, it is not permissible to challenge with the same application two different and independent administrative decisions which are not related, while it was deemed that negative decisions of the RRA, an order to leave the country and deportation orders are not related and therefore they have to be challenged separately.

In essence, an asylum seeker in order to safeguard protection from refoulement has to file three different recourses, none of which entails an automatic suspensive effect: a recourse against the decision of the Refugee Reviewing Authority rejecting an asylum claim, a recourse against decision of the Chief Immigration Officer to leave the country at once and subsequently if arrested, a recourse against detention and deportation orders.

Finally, access to the available remedy is seriously curtailed because in effect no legal aid is available. Although the law, in accordance with the EU directives on asylum and returns, provides for the possibility to apply for legal aid in asylum and deportation cases, in practice these applications are rejected. The law provides that for a legal aid application to be

approved, the applicants need to prove that they do not have enough means of subsistence and to prove possibilities of success of their case. It is almost impossible for asylum seekers and persons to be deported to be able to prove, without legal representation, possibilities of success of their case in a legality review case.

Comment to Paragraph 75:

According to KISA's experience, the Republic of Cyprus deports persons not only to the above countries. There have been, for example, cases of deportation to Afghanistan: a Sikh family with three minor children, who in the rest of the European Union would automatically be granted protection on account of their persecution as a religious minority in Afghanistan, was deported in 2013. Prior to their deportation, the father was detained for almost a year and the mother for a period of about one month together with her youngest child, who was 16 months old and still breastfeeding at the time. The family was apprehended trying to travel to the UK with fake documents to meet with their relatives, who are recognised refugees there. They subsequently sought asylum in Cyprus, fearing torture, inhuman and degrading treatment and persecution if they returned to Afghanistan. After rejecting their asylum application on grounds of credibility and after the court also rejected their legal aid application to challenge that decision, they were deported to Afghanistan. Their case is currently pending before the European Court of Human Rights.

There have been also cases of deportations to African countries such as Guinea, Sudan, Eritrea, the Democratic Republic of Congo, Ethiopia and Somalia. Moreover, the Republic of Cyprus deports persons to Georgia, Armenia, Kazakhstan, China, Philippines, Russia, Uzbekistan, Tunisia, Morocco, and many more. But most importantly, KISA emphasises the fact that persons are deported to Turkey (including persons of Kurdish origins), Tamils are deported to Sri Lanka, and Christians are deported to Egypt and Iran.

Comment to Paragraph 76:

KISA regrets the fact that the Government does not provide information on the number of cases in which persons were not returned on the ground that they would be subject to torture. Cyprus is one of the EU member states with serious gaps when it comes to sufficient statistical data in the field of asylum and migration. The asylum as well as the deportation procedures / mechanisms are fully computerised and therefore adequate to provide this information.

Comment to Paragraph 77:

Asylum seekers should according to the law have free and full access to public health services. In practice, they do not have entirely free healthcare, but are entitled to health care under the same conditions as Cypriot citizens. After the revision of the Healthcare Scheme in Public Hospitals, as from 1/8/2013, “persons entitled to healthcare benefits [...] pay the sum of €3.00 for a visit to a General Practitioner and the sum of €6,00 for a visit to a Specialist. In addition, they will pay a fee of €0.50 for each prescribed pharmaceutical product and €0,50 for each laboratory test with a maximum charge of €10,00 per medicine prescription or per laboratory test prescription form, respectively. [...] Patients who visit the Accident and Emergency Department pay the sum of €10.00, regardless of the services they receive. Some vulnerable groups, such as public assistance recipients are excluded from the above fee [...]” [45]

In order to access these rights, asylum seekers need a medical card, which can be acquired by submitting an application, either at the Ministry of Health, or at the General Hospital of the city they reside. Income criteria apply: “Medical Card is issued to the following persons: i. Persons without dependents whose annual income does not exceed €15,400.00. ii. Members of families whose annual income does not exceed €30,750.00, increased by €1,700.00 for each dependant child.” [46]

In case they do not work, applicants are asked to provide proof that they do not have adequate means of subsistence. A confirmation that they receive a welfare benefit is considered to be such a proof. In the event that an asylum seeker does not receive a welfare benefit (in the majority of cases), not only they are denied free access to emergency care, but, according to many complaints to KISA, they can also be refused access to a medical card.

Moreover, asylum seekers with special needs are not entitled to the same rights and benefits as Cypriot citizens. They do not have access to disability benefit, they are not entitled to treatment not available in the public health services, and they are not entitled to equipment necessary to them. Moreover, they do not have access to the services and benefits provided by the Department for Social Inclusion of Persons with Disabilities, under the Ministry of Labour and Social Insurance. The case of R.S. is indicative of the consequences such a policy has on the lives of asylum seekers and especially on their children. R.S. is the child of a family of Kurds, who came to Cyprus in 2004 seeking for asylum as stateless persons. R.S. was born in Cyprus in 2008 and diagnosed with psychokinetic retardation and severe atonia and therefore registered with the Commission

[45] [Ministry of Health – Press Announcement – 01/08/2013 – Revision of Healthcare Scheme in Public Hospitals from 1/8/2013.](#)

[46] [Ministry of Health – Press Announcement – 01/08/2013 – Revision of Healthcare Scheme in Public Hospitals from 1/8/2013.](#)

for the Protection of Mentally Retarded Persons. R.S. was in need of special therapeutic procedures (such as intense physiotherapy, ergotherapy, logotherapy and psychological support), but she was denied access to them because of the status of the family as asylum seekers. The Republic of Cyprus had not examined the asylum application of the family until 2013. As a result, the condition of R.S. not only had not improved, but it worsened and, according to the doctors who examine her, it is now irreversible, as she is immobilised, because of the lack of special therapeutic procedures at the time.

Asylum seekers that claim that they have been victims of torture are referred to the Medical Council, a government body that provides opinion on the health situation of persons, who claim benefits or are incapable of working. This Council has no specialization on cases of persons who have experienced torture and does not under any circumstances follow the Istanbul principles that should govern such specialized services.

In the majority of the cases examined by the Medical Council, their reports include the findings of the examination, but conclude that the Council cannot establish whether those findings are the result of torture. These reports are then used by the Asylum Service to justify rejecting an asylum application on grounds of credibility, as the applicant cannot prove that they have experienced torture.

Comment to Paragraph 91:

The claim referred to in the Government's report is not accurate. According to the Constitution, irrespective of the human rights safeguarded in the constitution, the state has the discretion to treat aliens differently but in accordance with the international obligations of Cyprus. Therefore, PART II of the Constitution which safeguards human rights is not applicable to aliens.

Moreover, in practice, migrants in prison or detention do not receive the same treatment as Cypriots. According to complaints received by KISA, many migrants in prison are discriminated against, they are not allowed the same visitation and leave rights – out of fear of absconding, whereas there have been reports that migrants are made to do the hardest and most humiliating jobs in prison such as cleaning the toilets, etc.

In particular, during the past few months, the issue of torture and other cruel, inhuman or degrading treatment or punishment became a major public issue in Cyprus, following a tragic death toll in the Central Prison in Nicosia, as well as other detention centres on the island:

- From early to late June 2013, 21 refugees from Syria were in hunger strike in the Detention Centre of Mennogeia for almost four weeks protesting against their illegal and inhumane arrest and detention under deportation proceedings. [⁴⁷]

[⁴⁷] [KISA – Press Release – 26.06.2013. 21 Syrian Refugees are on Hunger Strike at Mennogeia Detention Centre](#)

- On 4 and 5 July 2013, two detainees in the Detention Centre of Mennogeia were beaten up by the police officers at the centre.
- As a result, on the same day, the detainees in the Detention Centre of Mennogeia rioted, but the Cyprus Police presented this case as a simple incident of “complaints for personal preferences on the kind of food offered to the detainees”. [48]
- Between July and August 2013, KISA received several complaints by former detainees in the Detention Centre of Mennogeia about torture and other cruel, inhuman or degrading treatment or punishment of undocumented migrants by the police officers at the centre. [49]
- On 18 July 2013, a Greek Cypriot 38 year-old man committed suicide, although he had repeatedly asked for psychological support.
- On 15 August 2013, a Greek Cypriot 27 year-old man committed suicide, although he had also asked for psychological support which had never received by the authorities of the Central Prison in Nicosia.
- Following the second suicide within a month in the Central prison in Nicosia, on 15 August 2013, prisoners rioted and as a result nine persons were hospitalized: four of them were prison guards and five were detainees, four of whom were migrants held in custody for criminal offences. The case of the repeated rape of the young migrant prisoner by four other prisoners is particularly indicative of this abject situation. This person, according to media reports after the event , while convicted for petty crimes, was transferred to the prison wing reserved for rapists and other convicts serving long sentences after the request of a life-sentence prisoner, who planted strong tranquillizers in the food or drink of the young people selected for rape, so as to inhibit or slow down their reactions, under the cover of the officers and wardens on duty, who transferred the prisoners that the particular convict selected to the wing.
- On 29 December 2013, a Syrian refugee 22 year-old man, committed suicide as a result of the inhuman and degrading treatment by the prison guards, who did not even allowed him to call his mother who was hospitalized in critical condition in a hospital in Syria, while his brother had just died during the civil war in Syria. [50]
- From early December 2013 until mid-January 2014, 42 refugees from Syria were in hunger strike in the Detention Centre of Mennogeia for almost seven weeks protesting against their illegal and inhumane arrest and detention under deportation proceedings. They are accused of illegal stay and/or undeclared work and/or possession of falsified documents, with the aim of moving to another country for applying and receiving international protection status. Two of them attempted to commit suicide following the recent suicide of a Syrian refugee at Central Prison, one of whom was hospitalized in Larnaca General Hospital initially and later admitted for treatment at Athalassa Mental

[48] [KISA – Press Release – 05.07.2013. Immediate investigation of complaints for maltreatment of detainees at Mennogeia Detention Centre](#)

[49] [KISA – Video – 26.07.2013. Testimony of Ali Asgari About Mennogeia Detention Center in Cyprus](#)
[KISA – Video – 19.08.2013. Testimony of Patrick About Mennogeia Detention Center in Cyprus](#)

[50] [KISA – Press Release – 31.12.2013. The Non-accidental Suicide of a Syrian Refugee in the Central Prison: Policies leading Syrian refugees to impoverishment and destitution!](#)

Hospital. ^[51]

- On 10 January 2014, a Romanian 22 year-old man was taken to the General Hospital of Nicosia, after he had repeatedly being raped by four long-term convicts with the full knowledge and actually in cooperation with some of the prison guards.
- On 12 January 2014, an Iranian 40 year-old man committed suicide, as a result of the inhuman and degrading conditions of imprisonment that he was facing in the Central Prison in Nicosia.
- Following the fourth suicide within six months in the Central Prison in Nicosia, on 12 January 2014, a new riot took place, after which the Cyprus Police Emergency Response Unit (ERU) undertook the management of the penitentiary institution.
- On 14 January of 2014, a Bulgarian 28 year-old man committed suicide, also as a result of his inhuman treatment and the lack of any psychological support.
- On the same day, a Turkish Cypriot, young prisoner, who was a close friend of the 28 years old man from Bulgaria, tried to commit suicide, also as a result of his inhuman and degrading treatment by the prison guards.
- In addition, on the same day, two more prisoners managed to get out on the roof of the Central Prison in Nicosia and tried to commit suicide, but they have been prevented by the prison guards. ^[52]
- On 23 January 2014, another prisoner in the Detention Centre of Mennogeia tried to commit suicide. Initially, the migrant was taken to Larnaca General Hospital, then to Nicosia General Hospital and from there to Athalassa Mental Hospital. Following this new incident of attempted suicide, KISA called on the government to stop immediately any criminalization of issues related to migration, as for example the residence status of migrants, as this inevitably leads to further misrecognition of the dignity and the life of these people, who the only “offense that they have committed” is moving into another country to seek for a safer and better future. ^[53]
- On 8 February 2014, police officers beat up a 35 year-old migrant detainee in the Central Prison in Nicosia, just after his transfer from the Limassol District Court. As a result, the migrant detainee had to be taken to the General Hospital in Nicosia in a critical condition and with the fear of even losing his life due to the cruel mistreatment he had suffered by the police officers, who claimed that “they beat him up because he tried to escape”. ^[54]
- Lastly, on 14 March 2014, a Latvian 39 year-old man committed suicide, in the Detention Centre of the Limassol district police division. ^[55]

^[51] [KISA – Press Release – 02.01.2014. 42 Syrian refugees are on hunger strike in the Mennogeia Detention Center for 6 whole days!](#)

^[52] [KISA – Press Release – 14.01.2014. Migrants and prisons: “Collateral damages” and the “unknown” aspects of the prison system](#)

^[53] [KISA – Press Release – 24.01.2014. No more false tears and political negligence: Another migrant dies and another suicide attempt by a detainee at Mennogeia](#)

^[54] [Live News – Press Article – 08.02.2014. They beat up a detainee and they sent him to the Intensive Care Unit of the General Hospital in Nicosia \(Αποκλειστικό: Ξυλοφόρτωσαν κρατούμενο και τον έστειλαν στην Εντατική – In Greek\)](#)

^[55] [Kathimerini – Press Article – 16.03.2014. The story of the suicide of the Latvian detainee is unfolding: The criminal investigation ordered by the Chief of the Cyprus Police starts \(Ξετυλίγεται το κουβάρι της αυτοκτονίας του Λετονού: Αρχίζει η διοικητική έρευνα που διέταξε ο Αρχηγός Αστυνομίας – In Greek\)](#)

In relation to the Detention Centre of undocumented migrants in Mennogeia, KISA notes that the detainees are not informed of their right to appeal to the Supreme Court against the decision for their deportation with free legal aid, but even when they do have knowledge of their right and want to exercise it, they are denied access to it as the detention centre authorities refuse to transfer them to the court, while the court registrar cannot go to the detention centre to put them under oath. They therefore have no access to Justice. At the same time, the psychological violence and inhumane treatment they face put pressure on them to sign their “voluntary” return to their country. While, according to the law, they have every right to submit a claim while at the detention centre, this right is circumvented since no asylum application forms are available at the detention centres, despite the fact that the Republic of Cyprus falsely informed the European Commission of the opposite. Furthermore, the Mennogeia Detention Centre refuses to transfer them to the Asylum Service or the Aliens and Immigration Unit to apply for asylum, while the Asylum Service refuses to visit them citing “lack” of travelling funds. The detainees are under continuous checks and punitive treatment, which includes their being handcuffed as if they were criminals, even when they go to the toilet or are visited by their families. Another punitive measure is the isolation of hunger strikers from the rest of the detainees during their hunger strike. Furthermore, some detainees suffer physical violence in combination to other methods, such as the interruption of telephone signal so as not to be able to communicate. Visits are only allowed at the presence of policemen, while at the same time human rights organizations need written approval by the Chief of the Cyprus Police in order to visit the detainees. As a result of all these harsh and inhumane measures, the living conditions of detainees are unacceptable and degrading, while at the same time putting their health at risk. The quality of food is often so bad that the detainees often go without food for a whole day and survive only on water. The detainees do not have timely access to medical care. Those who need to visit the doctor can wait up to 2 weeks and only after a relevant application to see a doctor, to whom they are not allowed to talk since the policeman escorting them talks on their behalf. [⁵⁶]

Furthermore, KISA notes that these extreme phenomena observed in the Central Prison in Nicosia and the detention centres all over Cyprus are directly linked to institutionalized discrimination and racism experienced by migrant detainees, especially with regards to the exercise of their religious rights, the exercise of their right to communication and contact with members of their families and NGOs, degrading and demeaning work and few, if any at all, career programmes are implemented in the Central Prison. Furthermore, in spite of the repeated recommendations from international organisations (e.g. Council of Europe) and NGOs for the evaluation and handling of the extremely high percentage of migrants amid the total prisoner population, unfortunately these have not been heeded. Instead, the

[Simerini – Press Article – 17.03.2014. He hanged up himself in the detention centre \(Κρεμάστηκε με σεντόνι στα κρατητήρια – In Greek\)](#)

[⁵⁶] [KISA – Press Release – 26.06.2013. 21 Syrian Refugees are on Hunger Strike at Mennogeia Detention Centre](#)

[KISA – Press Release – 05.07.2013. Immediate investigation of complaints for maltreatment of detainees at Mennogeia Detention Centre](#)

[KISA – Press Release – 02.01.2014. 42 Syrian refugees are on hunger strike in the Mennogeia Detention Center for 6 whole days!](#)

continuing criminalization of migration in the last few years has led to a further increase in the number of migrants convicted for issues relating to their residence status and other migration-related issues (e.g. work without the required permit, use of false papers to travel in order to seek asylum in other countries). [57]

In this context, KISA underlines that these are not isolated incidents, with “no link to each other”, as politicians and state officials remark repeatedly, but rather they are the result and the tragic conclusion of the policies on migration and asylum adopted and implemented by the Republic of Cyprus. Furthermore, KISA would like to clarify that recent incidents – from suicides and repeated rapes of migrant detainees to the informal and illegal arrests and deportation of migrant workers, as well as the exclusion of these social groups from the policies of social security and social support infrastructures – must not be dealt with only as the aftermath of the new facts and adverse conditions brought about by the economic crisis. Using the economic crisis as a pretext, the government’s policies and administrative practices regarding migration and asylum amount to nothing less than their being forced to leave Cyprus. . Targeting migrants and asylum seekers, through which they are systematically and purposely depicted as responsible for almost all the problems Cyprus is facing, is exclusively intended to coerce these people into leaving Cyprus. At the same time, this political targeting could not but lead to the perpetuation and reinforcement of xenophobia, discrimination and racism, already dangerously rampant in the country. [58]

Comment to Paragraph 101^[59]:

- According to the CPT standards, “care should be taken in the design [of a detention centre] to avoid as far as possible any impression of a carceral environment”. In Mennogeia, each cell has a window but it is barred. Moreover, from 23:00 till 8:00 detainees are locked in their cells and, if they want to use the sanitary facilities, they have to press a bell in order for a police officer to open the door and take them to the toilets. Irregular migrants are therefore treated as criminals.

- According to the CPT standards, “detention facilities for immigration detainees should provide access to medical care”. However, there is no medical staff inside Mennogeia detention centre. Access to health care depends upon the willingness of each police officer

- According to the CPT standards, detention facilities shall provide access to appropriate means of recreation. In Mennogeia, there are no recreational activities. Moreover, people detained in wing B do not have access to sport facilities as the yard of this wing is very small.

[57] [KISA – Press Release – 14.01.2014. Migrants and prisons: “Collateral damages” and the “unknown” aspects of the prison system](#)

[58] [KISA – Press Release – 24.01.2014. No more false tears and political negligence: Another migrant dies and another suicide attempt by a detainee at Mennogeia](#)

[59] [KISA – Report – 24.03.2014. Detention Conditions and Juridical Overview on Detention and Deportation Mechanisms in Cyprus](#)

Comment to Paragraph 102:

- Despite the transposition of Directive 2008/115/EC into national law, undocumented migrants are still detained without respect of the new legal provisions. Detention appears to be a routine policy of the authorities and no alternative measures are considered. Moreover, despite Article 15 of the Return Directive, many migrants are detained without having any potentiality to be deported.

Despite the postponement of removal or suspension of deportation measures through a court order, when relevant, detention is not postponed or suspended, resulting thus in long detention periods while no measures are taken for deportation.

Despite the duration of detention that is provided in the Directive, third country nationals are sometimes detained beyond the maximum period of 18 months. Furthermore, in practice there is not any evaluation of the duration of detention every two months as provided for by the law.

Moreover, the Supreme Court, in the majority of its judges, responded positively to the need to examine the legality of the duration of detention in habeas corpus applications. Despite that, however, there is a persistent practice of the immigration authorities to arrest migrants set free by the Court in the context of habeas corpus applications, immediately upon their exit from the Court room, on the basis of new detention and deportation orders, despite the fact that the previous ones may have not been challenged and in any case not examined in the context of the habeas corpus application.

Comment to Paragraph 103:

Under the law, return decisions, entry-ban decisions and decisions for removal shall be issued in writing and be justified in fact and in law. However, such decisions are not always justified and do not mention the legal grounds, whereas the facts are rarely mentioned in the decision or are very general in nature. The authorities should also provide the migrant with information regarding the legal remedies available. In practice, nonetheless, the person concerned is only informed of their right to appeal at the Supreme Court, but not of their right to apply for legal aid, if they do not have sufficient means of subsistence. Migrants are not aware of their rights and it is therefore more difficult for them to challenge the decisions taken by the authorities.

When a return decision is issued, a period of voluntary departure should be allowed, after which a removal order may be issued if the migrant does not comply with the decision. The person concerned has to be informed in writing about this procedure, in accordance with Article 7 of the Return Directive. However, in the majority of the cases, third country

nationals are requested to leave Cyprus “at once” and/or they do not receive this letter and/or due to changes in their address they may not receive it on time or very often detention and deportation measures are issued before the expiration of the period of voluntary return and, therefore, they are not aware that a return decision has been issued against them. As a result, very often they cannot challenge the return decision or they cannot request any extension of the period for voluntary return and they are eventually apprehended on the basis of detention and deportation orders for failure to comply with the return decision, if issued. The principle that forced returns should be the last available option is not implemented.

Comment to Paragraph 104:

In many cases, persons who are released from detention are informed that arrest and deportation orders issued against them are suspended only for a couple of months and residence/work permit will be given to them only for this period. Such cases have happened especially recently with families with young children, whose parents have been released on humanitarian grounds after the intervention of NGOs. In any case, persons who are released have the right to apply for a residence/work permit, only if they first acquire employment and bring an employment contract stamped by the Department of Labour. This is impossible as the Department of Labour, which is supposed to be responsible to help them in finding employment, informs them that, due to the economic crisis, it is impossible to help them in finding a job. In case somebody manages to find a job on their own, the Department of Labour refuses to approve an employment contract, claiming that Cypriot and European citizens have priority in employment. As a result, all concerned persons remain undocumented and in many instances are arrested and detained again and repeatedly, being caught in a vicious circle.

Comment to Paragraph 113:

According to KISA’s experience, the investigation of the IAIACAP is generally inadequate and the Republic of Cyprus has not managed in any way to safeguard immediate and effective investigation of complaints concerning obvious violence by the police. As a result, such cases fail to reach the courts, or cannot result in the punishment of the perpetrators, because of lack of evidence. Since criminal prosecution is not possible without adequate evidence, the impression given is that perpetrators are innocent and complaints are dismissed.

Moreover, the state has no mechanism in place for the protection of complainants concerning possible vengeful acts against them: often, false reports are made by colleagues of the perpetrators against complainants in the context of “fraternal solidarity” between

police officers. As a result, complainants risk prosecution while in the overwhelming majority of cases perpetrators suffer no consequences at all.

Another problem with the investigation of complaints regarding violence exercised by members of the police in Cyprus is that it involves a particularly lengthy procedure. Usually, investigation takes years and this has or may have a negative impact both on the intent of complainants to testify regarding their experience and on the documentation of the case.

Finally, there are no effective mechanisms in place for the redress of the victim concerning damages (both moral and physical damages), which would provide an incentive for persons experiencing violence/any form of ill-treatment by the police to report it and cooperate for the prosecution of perpetrators.

Regarding IAIACAP in particular, KISA wishes to note that: its investigations (that involve all of the problems discussed above) can only result to mere *suggestions* to the Attorney General, who is the responsible to decide whether to follow them or just dismiss them. Moreover, complainants are not given access to the records of the investigation or to the report to the Attorney General.

KISA has submitted many complaints to the IAIACAP regarding abusive behaviour and violence by police against migrants. In the overwhelming majority of the cases, the IAIACAP did not perform any thorough investigation and perpetrators have not been persecuted. The Case of N.H is indicative:

In 2011 N.H., an unaccompanied minor, reported to KISA that the police had exercised physical and verbal violence against him and humiliated him using racist and homophobic speech. KISA reported the incidence to the IAIACAP, which replied that it forwarded the complaint to the Attorney General and was waiting for instructions on how to proceed. Since then (June 2011) no measures have been taken to this effect and no further information has been provided to either KISA or N.H.

More recently, there was an attempt by IAIACAP to cover up one more serious incident of human rights violation, concerning the illegal practice of ethnic and racial profiling and the arbitrary use of police violence against a recognized refugee by a member of the Cyprus Police Emergency Response Unit (ERU). In this context, KISA called on the Attorney General to immediately investigate all vital questions that seem to arise from the findings of the criminal investigators of the IAIACAP. Even though the findings have yet to be communicated to the complainant, they have been reported in a daily newspaper.

In detail, according to daily newspaper "*Phileleftheros*", "*the suspect police officer rightly and in the context of performing his duties proceeded to the verification of the complainant's data. The complainant unjustifiably considered the check as racist behaviour*

and unjustifiably reacted to the policeman's request for verification of his data. The suspect police officer justifiably arrested the complainant on the flagrant offence of causing unrest. The fall of the complainant which resulted in his injury as well as the injury of the suspect was caused solely by the complainant's behaviour. From the study of the video in question no brutal behaviour on the part of the suspect police officer against the complainant is established, as the video shows the time during which the complainant falls to the ground when the suspect police officer was trying to handcuff him". Additionally, the report claims that *"the alien who shot the video was sought but it has been found that he has left Cyprus".* The report also mentions that the *"video in question does not reflect the true picture of the whole incident, as it focuses on a single scene and particularly on the time of injury of the complainant and [...] its disclosure through the internet has unjustifiably and maliciously exposed the Police Force and in extension the Cyprus Republic".* Based on the above, it is concluded that *"all the actions of the suspect police officer at the time of the complainant's arrest were within the set framework of performing his duties" and suggests that "no criminal or disciplinary prosecution should be exercised against him".*

If these are indeed the findings of the report of the criminal investigators and IAIACAP, KISA questions their and expresses its doubts concerning the independence of IAIACAP, for the following reasons:

1. The findings of the criminal investigators and the IAIACAP, including the conclusions of the head of the criminal investigations, leaked to the press before the complainant or his lawyer were officially informed.
2. IAIACAP considers that ERU has the authority to *"carry out regular verification checks of aliens"*, but without investigating as it seems the complaint for unjustifiable, irregular and illegal police ethnic and racial profiling practices.
3. IAIACAP considers that it has the authority to judge whether a complainant *"unjustifiably considered a check against him as racist behaviour and unjustifiably reacted to the policeman's demand for verification of his personal date"*.
4. It has not been possible to find the witness who shot the video, as *"it has been found that he has left Cyprus"*, while he is still in Cyprus and as he has stated to KISA he is willing to testify, something which he has not so far been asked to do.
5. IAIACAP considers that the verbal, peaceful protest of a citizen about the way he is treated by the police constitutes *"flagrant offence of causing unrest"* to the degree that justifies his violent arrest and causing him gross bodily injury.
6. IAIACAP does not seem to have asked for the opinion of a specialist, who would scientifically document whether the serious injury of the complainant could be the result of his *"fall which resulted in his injury as well as that of the suspect"*, as claimed by the police officer, rather than the use of force against him, as supported by the claimant.

The apex of the partiality of the IAIACAP is that it does not only evaluate but it actually reprobates *"the publication of this video through the internet"*, considering that it is actually this action that has *"unjustifiably and maliciously exposed the Police Force and in extension*

the Cyprus Republic” rather than the action of the specific police officer. As a matter of fact, IAIACAP seems to proceed to the arbitrary conclusion that the “*Cyprus Police Force exposure*” was “*malicious*” and therefore on purpose and meaning deliberate harm. Based on the above, KISA calls upon the Attorney General of the Cyprus Republic, if what has been published in the newspaper report is valid, either to refer the findings of the criminal investigators and IAIACAP for review by independent criminal investigators, or to overrule it and proceed with the prosecution of the suspect police officer. Finally, KISA will proceed with all the necessary actions, including the exhaustion of judicial means, so as to prevent the cover up of this most serious incident and to secure justice against the illegal practice of ethnic and racial profiling and the arbitrary exercise of police violence, on the basis of bias motivation by the accused member of ERU. [60]

Comment to paragraph 122:

The only means of redress of victims of torture is to file a civil law suit for compensation for pecuniary and/or non-pecuniary damage before the District Courts. The Court can only diagnose the violation of the rights and award compensation. There is no possibility for the Court to order rehabilitation measures for victims of torture as firstly, such a request does not fall in its jurisdiction and in any case, as far as KISA is aware, there are no rehabilitation programmes in relation to victims of torture.

Moreover, the procedure for the law suit for compensation of victims of torture faces serious shortcomings in the current justice system, namely the following:

- Although in law, free legal aid is provided for filing a law suit for human rights violations, in practice access to such legal aid is almost impossible. An example of this is the legal aid applications submitted by two Turkish Cypriot musicians that participated in the Rainbow Festival organised by KISA in 2010 in Larnaca and were attacked, one of them stabbed, by members of far right groups and parties. After the state failed to actually proceed with the proper investigation of the crime, the T/Cs submitted a legal aid application in order to have a lawyer to represent them against the state for human rights violations. The District Court decided that no legal aid could be awarded as they did not file first the law suit – even though they did not have a lawyer to prepare such a law suit and this is what they were requesting – and it was considered that the applicant

[60] [KISA – Press Release – 27.11.2013. Beating and racist violence against a recognised refugee by a member of ERU in broad daylight, in the centre of Nicosia!](#)

[Cyprus Media Complaints Commission – 07.03.2014. Decision of the Cyprus Media Complaints Commission on the incident of ethnic – racial profiling and the publication of private data \(Απόφαση Επιτροπής Δημοσιογραφικής Δεοντολογίας αναφορικά με περιστατικό ρατσιστικής στοχοποίησης και δημοσίευσης προσωπικών δεδομένων – In Greek\)](#)

[KISA – Press Release – 08.12.2013. Resolution: Protest March Against Racial Profiling, Police Violence, Discrimination and Racism.](#)

[KISA – Press Release – 11.03.2014. New incident of racial profiling and police abuse against a migrant by an officer of the Cyprus Police Urgent Response Unit](#)

[Representation of the United Nations High Commission on Refugees \(UNHCR\) in Cyprus – Press Release - 18.03.2014. Statement regarding police action against African refugee](#)

[KISA – Press Release – 14.04.2014. Another extremely serious case of violation of human rights is led to suppression?](#)

who earns at an average 300 euro per month, had sufficient resources to appoint a lawyer. In fact, according to the experience of lawyers cooperating with KISA, recently the vast majority of legal aid applications in any other matter, other than criminal, are rejected on the grounds that, in the words of judges “ the states does not have any money”.

- The applicant needs to prove again the case, irrespective if in the criminal procedure, the perpetrator was found to be guilty beyond reasonable doubt. In that context, various procedural issues arise as for example the fact that the victim does not have access to the witness statements or other material of the criminal case as, according to the Penal Procedure Law, only the perpetrator and the prosecution have access to that material. As a result, the victim does not have equal access to the relevant material and therefore is put in a disadvantaged position.
- Although Cyprus was obliged to transpose the EU Framework Decision on the rights of the victims in criminal procedures, which provide also for the rights of the victims in terms of facilitating access to redress and compensation, it has not done so. As a result, no measures are taken in order to actually facilitate access to compensation.
- The civil cases procedures currently may last from 6-7 years to be concluded at first instance and another 3-4 years on appeal.
- As regards in particular migrants, refugees or victims of trafficking, even though in law they may have the right to file a case for compensation against violations of their rights from either the state or the perpetrators of the crimes, in practice such access is very difficult as they may in the meantime be deported from Cyprus and put on the stop list, and therefore they cannot re-enter Cyprus to pursue their rights. In order to be allowed entry, the Migration Department must give permission and this is normally a long procedure, it is exercised arbitrarily as there are no transparent criteria on the basis of which such applications are permitted or not and it does not always secure that the victim will be actually present when necessary for the civil law suit case.

Comment to Paragraph 125:

The Government does not specify the legislation referred to and does not provide relevant case law.