

COMMENTAIRES DU GOUVERNEMENT CONCERNANT LE RAPPORT SUR CHYPRE

ANNEXE : POINT DE VUE DU GOUVERNEMENT

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation à Chypre.

Conformément à la procédure pays-par-pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités de Chypre sur une première version du rapport. Un certain nombre des remarques des autorités ont été prises en compte et ont été intégrées à la version finale du rapport (qui, sauf indication contraire expresse, ne tient compte que de développements jusqu'au 9 décembre 2010, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

ANNEX TO THE FINAL ECRI REPORT

(fourth monitoring cycle)

Comments made by the Authorities of the Republic of Cyprus

Input by the Ministry of Labour and Social Insurance

Summary

Page 7

On page 7 of the Summary, the last paragraph mentions that «*Asylum seekers, like all other applicants for public assistance, must wait several months for the processing and receipt of welfare*». This should be replaced with «*The procedure of examining an application for the purpose of public assistance is the same for all the applicants in the Republic of Cyprus. When a person is identified as an asylum seeker and an application is made for public assistance, the application is examined within a period of a few months. It should be noted that special provisions are undertaken for the applications of asylum seekers to be examined as soon as possible*».

Employment

Paragraph 86

According to the existing policy on employment of foreign workers (third country nationals), permission for employment is granted for a specific post, provided that the post cannot be filled by nationals or other European citizens. During the last two years, because of the world economic crisis, unemployment has more than doubled compared with the pre-crisis period and there is availability of local workers or other European citizens for almost all occupations and sectors of the economy. In order to fight unemployment, government introduced a large series of measures, only one of which is the replacement of third country workers by Cypriots or EU nationals. This measure was implemented in such a way that no third country national would be sent home before the expiration of his/her contract, i.e.usually not before the completion of two years of stay in Cyprus, and very often not before the completion of four

years. All measures to fight unemployment were equally publicised but the programme for the replacement of third country nationals was the least popular among employers.

Paragraphs 93 and 94

The Department of Labour Relations of the Ministry of Labour and Social Insurance continuously enhances its efforts for improving the working conditions of foreign workers as these are stated in the contract of employment, signed by both parties, soon after their arrival in Cyprus.

The contract of employment specifies, among others, working hours, annual leave as well as public holidays fully paid. The gross salary stated in the contract of employment for foreign workers is the one provided in collective agreements so as to safeguard equal pay. Terms of employment of foreign workers in the areas of farming, agriculture, industry and commerce are those provided in collective agreements so as to safeguard equal treatment between all workers in Cyprus. As far as domestic workers are concerned, terms of employment are set by the Ministry of the Interior, since there is no collective agreement in force.

Furthermore, an inspection mechanism has been set up, so that inspections are carried out in order to safeguard the enforcement of Equality Law. To accomplish the above target, the Ministry of Labour and Social Insurance proceeded with the appointment of 30 inspectors that are also responsible for the inspection of workplaces with regards to undeclared and illegal work.

Paragraph 96

Employment officers undertake an in depth examination of cases of asylum seekers who refuse available jobs. Before considering them as willfully unemployed they give the opportunity to both employers and candidates (asylum seekers) to present their case.

Non-citizens

Paragraphs 178 and 179

Paragraph 178, makes reference to welfare benefits obtained by asylum seekers. More specifically it mentions that «.....*To obtain welfare benefits, asylum seekers have to have a valid address, which is impossible for many who are homeless. ECRI has also learned that, due to chronic under-staffing at the welfare office, it takes an average of four months before requests for welfare assistance are processed and received by asylum seekers. This clearly pushes many asylum seekers into finding irregular work for survival*». Also the ECRI recommends in paragraph 179 that «*ECRI urges the authorities to find a way to speed up the processing and receipt of welfare assistance so that asylum seekers are not pushed towards illegibility*». First it should be mentioned that there are no reported cases of homeless asylum seekers. Furthermore it must be noted that the period to examine an application for public assistance is the same for all applicants in the Republic of Cyprus. However special provisions apply in the case of an asylum seeker, by providing interim payments while waiting for the application to be examined, in order to cover immediate basic needs and accommodation. After an application for public assistance is examined and approved asylum seekers are receiving public assistance on regular payments (weekly or monthly).

Input by the Independent Authority for the Investigation on Allegation and Complaints Against the People

Paragraph 203

The report comments on the establishment of the Independent Authority for the Investigation of Allegations and Complaints Against the Police (IAIACAP) stating that **“It also has the power to act *ex officio* and initiate its own investigations.”**

The IAIACAP would like to clarify that in 2009, it initiated the investigation of three cases *ex officio*. One of these cases involved an 18 year-old from Zimbabwe who alleged that he was beaten up by police. This case is mentioned in paragraph 206 of the report.

Viewpoint of Cyprus Police

Concerning paragraph 205 of the ECRI report, Cyprus Police wishes to submit the following information, comments and clarifications:

Not all criminal cases, which are filed in Court against members of Cyprus Police, are of a serious nature. Some are and most are not. For the years 2007-2009, the percentage of criminal investigations against members of the police, which were of a serious nature, was 15%. For the same period, 47% of the investigated offences were related to traffic/road safety issues.

Criminal Courts are competent to impose criminal sanctions to members of the Police, who are found guilty of criminal charges, but are not competent to decide on career-related aspects (eg. dismissal, etc). Such competency rests with internal Police Disciplinary Boards, which review the respective disciplinary cases and if they reach a guilty verdict they may impose the appropriate sanction, one of which (and the most severe) is dismissal. There is also a series of other disciplinary sanctions (eg. mandatory resignation, demotion, delay or withdrawal of annual salary increment, fine, etc).

There have been cases in which Criminal Courts acquitted members of the Police, and yet Police Disciplinary Boards decided to dismiss them from the Police during the respective disciplinary procedure.

Cyprus Police strongly maintain that a criminal conviction of one of their members may not automatically lead to a disciplinary dismissal, and alternatively that a criminal acquittal of one of their members may not automatically lead to a disciplinary acquittal and that it may not automatically prohibit the Police from imposing even the penalty of dismissal. Such competency and discretion rests with Police Disciplinary Boards.

It is highlighted that following the acquittal of a number of police officers, who were facing charges related to police misconduct in 2006, by the Assize Court, the Attorney General appealed the decision and upon retrial most of the accused were found guilty.

It is quite unsafe to compare or contrast the number of criminal cases investigated against members of the police in a specified period, with the number of police officers dismissed by the police or even with the number of officers convicted by the Court in the same period. This is partly attributed to the fact that one case may refer to more than one accused person. Furthermore, in cases where an officer under investigation or under trial ceases for any reason (disciplinary or not, or retirement) to be a member of the Police, the outcome of any criminal proceedings after the end of his/her career is not imposed on a police officer, and therefore it is not counted to the end of the process in the submitted data. The number of cases investigated against members of the police is not comparable to the number of officers dismissed from the police in relation to the same cases for the same period.

Cyprus Police consider that the legal and monitoring environment with respect to police misconduct is sufficient and that there are sufficient investigative, criminal and disciplinary mechanisms and punitive measures and deterrents.

Input by the Law Office of the Republic

Paragraph 207 of the ECRI Report Cyprus states:

“the complete discretion of the Attorney General to prosecute or not criminal cases, including those referred by the Independent Authority, could be seen as a weakness in the effective implementation of the Independent Authority’s mandate and might ultimately undermine its credibility.”

The above reference seems to misunderstand the criminal justice system in Cyprus. The Cypriot criminal justice system makes a distinction between investigation and prosecution. Investigation of a possible crime is usually conducted by the police while prosecution is always ordered by the Attorney General, who is the only prosecuting authority in Cyprus. According to the Constitution the Attorney General can order the prosecution of any crime (article 113 (2)) and is the head of the Law Office of the Republic of Cyprus which is an independent service (article 112 of the Constitution).

It has to be stressed that the Independent Authority for the investigations of allegations and complaints against the police was established following advice and initiative from the Attorney General. Its role is to investigate complaints against the police. The powers of the Independent Authority are the same as those of the police when investigating crimes. The Independent Authority does not have more or less powers than the police investigators have when they investigate crimes. The Independent Authority is no more or less independent than the Attorney General. Their difference lies in their different functions within the criminal justice system: investigation (Authority), prosecution (Attorney General).

Input by the Ministry of Foreign Affairs

As regards **paragraph 10**, the issue of granting the status of citizenship to children whose one parent is a Turkish national, having entered or residing illegally in Cyprus, is directly linked to the illegal activity of Turkey, which since the Turkish occupation of Cyprus in 1974, has systematically pursued a deliberate policy of colonizing the occupied part of Cyprus, from which it militarily expelled 170,000 Greek Cypriots.

Under international law, transfers by an occupying power of its own civilian population into the territory it occupies are illegal. Article 49(6) of the 1949 Fourth Geneva Convention stipulates that the **“Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies”**.

In Resolutions 33/15 (1978), 24/30 (1979), 37/253 (1983) et. al. the United Nations General Assembly deplored “all unilateral actions that change the demographic structure of Cyprus.”

In its Resolution 4 (XXXII) (27/2/76) the Commission of Human Rights calls on parties to refrain from unilateral acts to change the demographic structure of Cyprus and in resolution 1987/50 (11.3.1987) the Commission on Human Rights express concern for the influx of settlers and calls for respect for the rights and freedoms of the population of Cyprus.

The fact that the occupied part of Cyprus has been subjected to systematic settlement from Turkey has been reported on twice by the Council of Europe’s Committee on Migration, Refugees and Demography, in 1992 (Rapporteur: A. Cucó, Spain) and in 2003 (Rapporteur: J. Laakso, Finland). On 24 June 2003 the Laakso Report led to the adoption by the Parliamentary Assembly of the Council of Europe of Recommendation 1608 wherein, having noted the lack of exact figures of Turkish nationals arriving in the occupied part of Cyprus, the Assembly *inter alia* stated the following:

“5. In the light of the information available, the Assembly cannot accept the claims that the majority of arriving Turkish nationals are seasonal workers or former inhabitants who had left the island before 1974. Therefore it condemns the policy of “naturalisation” designed to encourage new arrivals which was introduced by the Turkish Cypriot administration with the full support of the Government of Turkey.

6. The Assembly is convinced that the presence of the settlers constitutes a process of hidden colonisation and an additional and important obstacle to a peaceful negotiated solution of the Cyprus problem.

7. Therefore, the Assembly recommends that the Committee of Ministers:

i. instruct the European Population Committee (CAHP) to conduct a population census of the whole island, in co-operation with the authorities concerned, in order to replace estimates with reliable data...

iv. call on Turkey, as well as its Turkish Cypriot subordinate local administration in northern Cyprus, to stop the process of colonisation by Turkish settlers...

v. call on Turkey to comply with the decisions of the European Court of Human Rights concerning refugees' right to property in the occupied part of Cyprus..."

In their report on Local Democracy in Cyprus to the Chamber of Local Authorities of the Council of Europe (10 Nov. 2005), Rapporteurs Dr Ian Micallef (Malta) and Alan Lloyd (UK), mention that: "13. ...A substantial number of settlers from mainland Turkey have been transferred to the occupied area since 1974 and settled in towns and villages from where Greek Cypriot displaced persons had been forced to flee...some of the local representatives in the area which is not under the control of the government originate from this category of the population which complicates the issue considerably. Currently, from the local representatives of the 28 "municipalities" in that area six are Turkish settlers, heading the municipalities which were predominantly inhabited by Greek Cypriots prior to 1974..."

The constant influx into the occupied area of settlers from mainland Turkey, takes place in parallel with a continuous outflow of indigenous Turkish Cypriots, who, in 1974, totaled about 116,000 i.e. about 18% of Cyprus's population. Today, Turkish settlers [estimated at upwards of 160,000] far outnumber Turkish Cypriots [estimated at 88,700]. In addition, stationed in the occupied area are upwards of 45,000 Turkish troops. That is, there are at least 200,000 non-Turkish Cypriots, or more than two Turks for every Turkish Cypriot.

In the light of the above, it should be stressed that each application for granting the status of citizenship to children whose one parent is a Turkish national, is examined by the Government of the Republic of Cyprus on a case-to-case basis and according to the fulfilment of certain criteria, set out by the Council of Ministers of the Republic of Cyprus. All applications fulfilling the criteria have led to the granting of the status of citizenship. The applications that were rejected did not conform to the requirements for granting the status of citizenship.

The Ministry of Foreign Affairs disagrees with the view that this practice arouses xenophobic feelings, as the great majority of applications have led to the granting of the status of citizenship to children whose one parent is a Turkish national. The Ministry of Foreign Affairs strongly reiterates that the Government's policy is not to deny on racial grounds citizenship to a child whose one parent is a Turkish national, but rather to protect the demographic composition of Cyprus, which Turkey has been illegally altering since 1974.

Concerning references in **paragraphs 66, 111 and 130**, to "northern part of the island", the Government of the Republic of Cyprus would like to indicate that the correct terminology used for describing the occupied areas of the Republic of Cyprus is, either "occupied areas" or, also according to the terminology used in Protocol 10 of the European Union Treaty of Accession (16 April 2003), "areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control".

Concerning **paragraph 133**, and specifically recommendations (iii) and (iv) on promoting dialogue and joint activities between Greek Cypriots and Turkish Cypriots and supporting civil society in promoting dialogue and reconciliation, which seem to be unmentioned in the Draft Report, the Government of the Republic of Cyprus would like to bring to your attention the fact that the Republic of Cyprus is partly funding the following project: "**Revitalising the "Dead Zone". Home for Cooperation: an Educational and Research Centre**". **The project will last from 2006 to 2011. The aim of the project**

is the creation of a building, located in the buffer zone of Cyprus, which seeks to transform the “dead zone” “from a symbol of segregation to a symbol of cooperation”.

The project aims to provide local people and the civil society with the opportunity of having multi-communal contacts, a space for research and education and teacher-training seminars. The building will also make available to the public a wealth of resources concerning history teaching and information on the communities and religious groups of the Republic of Cyprus, including a Multi-communal Museum/Exhibition Centre, Archives and a Centre for digitalization.

The project is being implemented by the inter-communal NGO Association for Historical Dialogue and Research (AHDR), which since its foundation in 2003 has enlisted members from **various ethnic, linguistic, and professional backgrounds. Its Board is comprised of Greek Cypriot and Turkish Cypriot educators and historians** and, as AHDR’s website states, “is a brilliant example of how productive cooperation; creative ideas and respect can blossom across the divide”.

As regards **paragraph 139**, the Government of the Republic of Cyprus would like to recall the fact that since 2003 when there has been a partial lifting of movement restrictions between the occupied and the free areas of Cyprus, there has been almost no incidence of hostility and discrimination between Greek Cypriots and Turkish Cypriots. Such incidents have been isolated, and have been condemned by the Government of the Republic of Cyprus. Furthermore, all necessary measures were taken in order to bring to justice the people responsible for these actions.

Regarding **paragraphs 132-139**, the Government of the Republic of Cyprus would like to mention that the Government’s policy toward the Turkish Cypriot community has been supportive toward economic development and that Turkish Cypriots have been treated equally, with no discrimination whatsoever.

In particular, since the accession of Cyprus in the European Union, Turkish Cypriots, as citizens and holders of passports and other official documents of the Republic of Cyprus can study, move, work and settle freely in all EU member states and enjoy those benefits afforded to EU citizens, including diplomatic and consular protection in third countries, despite the fact that the *acquis communautaire* is currently suspended in the occupied areas because the Government does not exercise effective control in these areas.

In addition, it is underlined that since the partial lifting of movement restrictions on movement by the Turkish army in 2003, and in accordance with Green Line Regulation (Council Regulation (EC) No 866/2004) of 29.4.2004., the Turkish Cypriots have been allowed to trade goods to the free areas of the Republic of Cyprus and export their goods to other countries. This has resulted in the further strengthening of the Turkish Cypriot community’s economic development. Additionally, the Financial Aid Regulation (Council Regulation (EC) No 389/2006), on the basis of a proposal by the Government of the Republic of Cyprus, has allocated the sum of €259 million to the Turkish Cypriot community, to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community with particular emphasis on the economic integration and on improving contacts between the two communities and with the EU.

Moreover, the Government of the Republic of Cyprus believing that the economic development and the welfare of the Turkish Cypriot community is better served through the economic integration of the two communities in a reunified Cyprus and notwithstanding the obvious difficulties stemming from the fact that the vast majority of Turkish Cypriots reside in the areas not under the effective control of the Government of the Republic of Cyprus, the Government has implemented a series of specific measures for the economic development of the Turkish Cypriot community. These measures, the cost of which has risen to more than \$200 million in the last five years, include free access to public hospitals, social insurance and support, administrative issues, reparation of mosques in the Government-controlled areas, as well as agricultural and educational financial help.

A table on the financial aid that has been given to Turkish Cypriots for the years 2004-2008, on each sector, follows:

See Annex

Annex

FINANCIAL AID TO THE TURKISH - CYPRIOT COMMUNITY, 2004 - 2008						
No	Category	Sub- categories	Cost of Expenditure			
			2004 (€)	2005 (€)	2006 (€)	2007 (€)
1	Health	Public Medical Centres	4.016.522,00	3.457.441,00	3.189.363,00	3.726.402,00
		Cancer Treatment Centre of Bank of Cyprus	679.822,00	556.738,00	420.556,00	766.895,00
		Institute of Neurology & Genetics	69.578,00	67.647,00	56.939,00	72.654,00
		Patients traveling abroad / Heard Surgery Centres in Cyprus	300.280,00	27.240,00	36.026,00	179.403,00
		Cost subsidies paid for kidney transplantation	66.635,00	143.523,00	281.919,00	102.516,00
		Total Annual Cost	5.132.837,00	4.252.589,00	3.984.803,00	4.847.870,00
2	Social security and Social benefits	Governmental contribution for T/c salaries	1.147.416,42	1.286.576,89	1.399.358,25	1.489.092,00
		Pensions/Benefits /Aid Schemes from the Social Security services	17.052.216,57	19.036.569,20	19.857.350,57	20.383.540,00
		Department of Labour/Department for Social Inclusion for people with disabilities	4.397,94	3.374,49	6.938,63	7.053,11
		Social Welfare Services	436.477,62	678.547,14	730.148,61	748.162,40
		Lump sum payment	0,00	1.908.207,10	4.615.766,29	1.233.934,00

FINANCIAL AID TO THE TURKISH - CYPRIOT COMMUNITY, 2004 - 2008

No	Category	Sub- categories	Cost of Expenditure			
			2004 (€)	2005 (€)	2006 (€)	2007 (€)
		Total Annual Cost	18.640.508,55	22.913.274,82	26.609.562,35	23.861.78
3	Grants and Benefits Service	Tuition sponsorship for students	11.960,21	17.086,01	23.920,42	46.132,24
		Child benefits	218.256,75	188.443,36	181.870,37	274.628,6
		Total Annual Cost	230.216,96	205.529,37	205.790,79	320.760,8
4	Ministry of Interior administrative cost for issuing certificates and cost for T/c property management	Repair/ Maintenance of muslim mosques, ancient monuments and cemeteries	584.795,00	482.885,00	405.021,00	410.098,0
		Repair of T/c houses	45.795,00	299.860,00	279.891,00	180.538,0
		Maintenance of Immigration Reception Centres	122.585,00	6.814,00	13.748,00	4.331,00
		Expenses in terms of wages and services (interpreters etc.)				
		“Green Line” crossing points				
		Cyprus Broadcasting Corporation (PIK)				443.817,7
		Total Annual Cost	1.456.804,85	1.609.359,04	1.247.075,73	1.504.022
5	Agriculture	Domestic water supply to the T/c in the occupied areas	1.431.126,28	1.870.351,32	1.949.939,69	2.147.071
		Maintenance of dams and irrigation systems in the occupied areas	15.437,21	34.788,83	15.377,41	0,00

FINANCIAL AID TO THE TURKISH - CYPRIOT COMMUNITY, 2004 - 2008

No	Category	Sub- categories	Cost of Expenditure			
			2004 (€)	2005 (€)	2006 (€)	2007 (€)
		Veterinary Services (concerns T/c who live in the areas in which the Government of the Republic of Cyprus exercises effective control)	12.942,66	9.909,89	6.714,80	2.100,00
		Department of Agriculture (concerns T/c who live in the areas in which the Government of the Republic of Cyprus exercises effective control)	70.425,13	0,00	0,00	4.234,00
		Total Annual Cost	1.529.931,28	1.915.050,04	1.972.031,90	2.153.405,00
6	Education	Tuition fees for T/c who live in the areas in which the Government of the Republic of Cyprus exercises effective control	272.373,28	256.290,21	325.719,23	314.669,70
		Tuition fees for T/c who live in the occupied areas and other expenses	29.449,45	98.394,94	130.451,72	130.579,80
		Training Centres, Government owned Training Institutes and cost of education in public schools	399.096,83	526.163,81	476.535,78	367.279,20
		Subsidies for cost of bi-communal cultural events and programmes	0,00	0,00	169.535,98	44.676,51
		Total Annual Cost	700.919,56	880.848,96	1.102.242,71	857.205,30
7	Electricity	Total Annual Cost	562.129,87	625.348,13	808.168,48	866.260,90

FINANCIAL AID TO THE TURKISH - CYPRIOT COMMUNITY, 2004 - 2008

No	Category	Sub- categories	Cost of Expenditure			
			2004 (€)	2005 (€)	2006 (€)	2007 (€)
8	Telecommunications	Upgrading the mobile phone network so as to expand the coverage (to an extent) to the occupied areas	256.290,22	0,00	0,00	0,00
		Total Annual Cost	256.290,22	0,00	0,00	0,00
9	Customs	Cost of salaries for 9 employees at the "Green Line" crossing points	0,00	0,00	0,00	0,00
		Cost of overtime work	0,00	0,00	0,00	0,00
		Infrastructure cost and functional cost	0,00	0,00	0,00	0,00
		Total Annual Cost	0,00	0,00	0,00	0,00
Grand Total			28.509.638,29	32.401.999,36	35.929.674,96	34.411.31